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MEMORANDUM

DATE	October 11, 2007
TO	Members, Division of Licensing
FROM	Kathi Burns, Manager <i>K Burns</i> Licensing Operations Section
SUBJECT	Proposed Regulations Relating to Continuing Medical Education Audits; Title 16, California Code of Regulations Sections 1336 and 1339

In order to insure the continuing competence of physicians and surgeons (licensees) Business and Professions Code section 2190 requires licensees to complete continuing medication education (CME) and to demonstrate to the Medical Board of California (Board) satisfaction of such requirements at intervals of not less than four nor more than six years.

ISSUE 1:

Background:

Title 16, California Code of Regulations (CCR) section 1336 directs each licensee to complete an average of at least 25 hours of CME each calendar year. Title 16, CCR section 1338 directs the Division of Licensing (Division) to conduct an audit of licensees not more than once every four years.

The Division has performed three audits of CME over the past few years. These audits have uncovered two issues causing confusion among staff and licensees. The first is related to the requirement that each licensee complete 100 hours of CME during a *four year period* and the second is related to the requirement that the licensee complete an average of 25 hours of CME during *each calendar year*.

The current regulation is problematic because it directs calculation of CME to be based upon time periods that do not line up with a licensee's renewal period. A license expires *every two years upon the expiration date of the license*, NOT at the end of each calendar year. The MBC selects a four year period to audit, based upon the four (calendar) year period prior to the expiration date of the licensee. However, that may not be the same four year period the licensee has been using to calculate their 100-hour requirement, since licensees typically calculate hours based upon renewal cycle, not calendar year.

Recommendation:

Staff recommends that section 1336 of the regulations be modified to clarify that licensees complete at least 50 hours of approved CME during the two-year period preceding the expiration of the license (which is equivalent to the current requirement of 25 hours per year for a total of 100 every four years). This would clarify that the four year period being audited includes the two prior renewal cycles and eliminates the calculation of CME hours by calendar year.

ISSUE 2:

Background:

Title 16, CCR section 1339 addresses waivers of CME requirements.

Currently, there is no requirement that a licensee complete any CME prior to renewing their license from a CME EXEMPT status. This means that a licensee could go into an ACTIVE status without completing any CME. Since Title 16, CCR section 1339.5 requires a licensee in an INACTIVE status to complete 50 hours of CME prior to restoring the license to ACTIVE status, the same requirement should exist for becoming ACTIVE from a CME EXEMPT status.

Recommendation:

Staff recommends that a paragraph be added to section 1339 of the regulations to require a licensee in a CME EXEMPT status to complete 50 hours of CME prior to restoring the license to ACTIVE status.

Attachments: Proposed Regulation Language

**California Code of Regulations
Title 16, Division 13
Chapter 1, Article 11**

§ 1336. Continuing Education Required.

(a) Each physician is required to complete not less than 50 ~~an average of at least 25~~ hours of approved continuing education during each two year period immediately preceding the expiration date of the license calendar year. If an initial license was issued for less than 13 months, only 25 hours of continuing education are required.

(b) Each physician renewing his or her license under the provisions of Article 19 (commencing with Section 2420) of the Medical Practice Act may be required to submit proof satisfactory to the division of compliance with the provisions of this article a minimum of every four (4) years.

(c) Each physician in order to renew his or her license at each renewal thereof shall report progress towards compliance with the continuing education requirement.

(d) Any physician who does ~~cannot~~ complete a minimum of 50~~400~~ hours of approved continuing education during the two-year period immediately preceding the expiration date of the license ~~a four (4) year period~~ shall be ineligible for renewal of his or her license under Section 1338 unless such physician applies for and obtains a waiver pursuant to Section 1339 below.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2190 and 2420, Business and Professions Code.

§ 1339. Waiver of Requirement.; Restoration to Active Status

- (a) The division, in its discretion may exempt from the continuing education requirements, any licensee who for reasons of retirement, health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted on a provided form to the division for its consideration.
- (b) Any physician who submits an application for a waiver which is denied by the division, shall be ineligible for renewal of his or her license to practice medicine unless such physician complies with the provisions of Section 1338.
- (c) A physician who has received a waiver pursuant to this section shall be eligible to restore his or her license to active status if the physician has completed a minimum of fifty (50) hours of continuing education within two (2) years immediately preceding the date of application to restore the license to active status.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code