



# MEMORANDUM

DATE	May 11, 2023
TO	OMBC Board Members
FROM	Terri Thorfinnson, Administrative Services Program Manager
RE:	Agenda Item 14(A) – OMBC legislative Proposals for Licensing

## Background.

Since the implementation of SB 806, the Board has observed some deadline issues created by the changes in the expiration date of the Postgraduate Training license, the deadline for obtaining a Physician and Surgeon license that the Board has the following proposals for consideration to solve issues caused by these statutory deadlines. The MBC is also considering some of these proposals, but not all of these proposals. Overall, what the Board has observed is that the current statutory deadlines have the unintended consequence of either creating a barrier to licensure in some instances or forcing residents to cease practice in their residency programs because they are unlicensed. These proposals are narrowly designed to extend deadline to provide both the board staff more time to process applications and residents more time to apply for licensure.

## Proposal #1: Extend the Postgraduate License Expiration to 36 months

Extend expiration date for Postgraduate Training License (PTL) to 36 months to accommodate residents enrolled in California training programs that need more time to meet licensure requirements or to provide a license for those residents that do not intend to apply for a license in California.

## Background.

Since the implementation of SB 806 in 2022, the board has observed that the shortened Postgraduate Training License from 39 months to 15 months has posed a problem for residents obtaining their Physician and Surgeon license prior to the expiration of their PTL. As a result, many residents were in a position to have to cease practice within their residency when their PTL expired, and they had not obtained their Physician and Surgeon license. The issue was brought to the attention of the DCA Director who issued an emergency order this past fall extending the expiration deadlines. This extension allowed most residents to remain practicing medicine within their residency and allowed more time to obtain their license. This emergency power has ended so it may not be relied upon in the future as an episodic solution to this problem.

The Board observed that the 15 months was not sufficient time for all residents to obtain their Physician and Surgeon license. One of the biggest contributors to the problem was that residents delayed until the last minute to apply for their Physician and Surgeon license leaving insufficient time for the Board to receive the required documents and process their application. This problem caused stress on Board staff, residents, and the training programs. The other major contributor is the Board was understaffed to process the increased volume of application it received in 2022.

### **Discussion.**

The change in licensure requirements that allowed residents to apply for licensure after completing 12 months of postgraduate training triggered a substantial increase in the number of applications the Board received. The intersection of the shorter PTL expiration (39 month to 15 months) and the 90-day window for obtaining the Physician and Surgeon license suddenly caused an issue that had not been a problem before—residents having to cease practice within their residencies because they were unlicensed.

Since the goal is to have anyone practicing medicine in California to be licensed by the Board, perhaps the best option to solve this problem is simply extending the PTL to 36 month allows all residents to be licensed throughout the duration of their residency program. This is how it was prior to SB 806, and it worked well. It would allow residents with no intention of practicing or becoming licensed in California to not have to apply for a California license. For those residents intending on practicing in California, it provides them more time to apply for their Physician and Surgeon license during their residency without the threat of having their PTL license expire.

This solution would still allow residents to apply for their Physician and Surgeon license after completing 12 months but would alleviate what appears to be a harsh deadline to obtain the license. The PTL would expire upon completion of their residency in California or when they obtain their physician and surgeon license. The PTL will still only be valid while the licensee is enrolled in a California Board-approved postgraduate training program and only authorizes the licensee to engage in the practice of medicine in connection with the licensee's duties as an intern or resident in the program.

Overall, it would eliminate stress for everyone. For Board staff, it would eliminate the stress of the impending deadline to process all license applications regardless of when the application was received. This solution also protects public safety by ensuring residents

are licensed throughout their residency. It also provides a cushion of time for residents to obtain their Physician and Surgeon license and residency training programs do not have to suspend otherwise unlicensed residents in their programs.

This proposal does not change the requirements for licensure, rather it proposes a solution to ease administrative challenges in the licensing application review and approval process.

**Recommendation:** Approve proposed extension of the Postgraduate Training License from 15 months to 36 months.

## Proposal #2: Provide Residents Additional Time to Pass Final Examination.

### Background.

The board has observed that some residents do not meet the licensure requirements because they have not passed the required examinations. If a resident fails one of the exams, with the current PTL expiration of 15 months, they are unable to qualify for a Physician and Surgeon license and their Postgraduate Training License expires before they can retake and pass the final exam. As a result, the resident would have to cease practice and cease training in the residency and not be able to complete the residency program or apply for full licensure. They are stranded without options to continue their residency and become licensed in California. This is an unintended outcome that can be easily resolved. The Board would like the authority to extend the Postgraduate Training License 60 days beyond their current postgraduate training license expiration date. Since residents are allowed 4 tries to pass any level of exam, it is possible that even extending the Postgraduate Training License to 36 months, they will need additional time to pass the final exam. Providing the board specific authority to extend the postgraduate training license 60 days if needed would solve this problem.

### Discussion.

Typically, residents pass all levels of COMLEX by the end of their residency and most by the end of their first year of residency. However, for those who do not pass each level on the first try, they will need more time to pass the required COMLEX levels. The additional time proposed by Proposal #1, would provide more time. However, the Board has encountered a few situations that residents were unable to attain passage of COMLEX level 3 by the end of their PTL expiration and were not eligible to apply for the Physician and Surgeon license. For these few situations, the Board would like to have the authority to extend the PTL license by an additional 60 days for the sole purpose of facilitating more

time for the resident to pass COMLEX level 3.

The Board sees the exam issue as different than other reasons for a resident being required to cease practice within their residency. Unlike the issue of residents applying late or the Board needing more time to process application, the exam issue disqualifies the resident from being eligible for licensure in California. It is a unique circumstance for which the Board would request the authority and discretion to extend the PTL expiration deadline to accommodate a resident to pass their required examination, so they are eligible to apply for licensure. This authority would be narrowly construed to apply to exams only so that it does not open an unintended loophole for applicants who have passed their examinations and eligible to apply for licensure to request an extension of time to obtain their license.

Proposed solution is to amend BPC section 2065 (f) to provide the following authority to the board:

- Upon a request from the Board-approved postgraduate training program, the board, in its discretion, may grant an additional 60-day extension for a postgraduate training licensee to successfully meet the written examination requirement.

**Recommendation:** Approve the proposal to authorize the board to grant a 60-days extension of the PTL to accommodate residents needing to meet the examination requirement for licensure eligibility with the above statutory amendment.

### **Proposal #3: Extend Deadline for Out of State Residents Enrolled in a California Residency Program to Obtain their Physician and Surgeon license from 90 days to 6 months.**

#### **Background.**

The Board has observed that the 90-day application window for out of state residents who have completed 12 months residency training is insufficient time for them to become licensed and prevent having to cease practice in their residency due to not having a license. This is a new group of applicants created by SB 806 who are otherwise eligible for licensure but do not need to apply for the PTL because they have completed 12 months of postgraduate training and are thus eligible for a full license. The problem is that the 90-day application window for out of

state residents in not enough time for them to obtain a license and continue practicing medicine within their California residency program. As a result, many of these out of state residents enrolled in California residency programs are required to cease practice after the 90-day window when they have failed to obtain licensure. This problem could be easily solved with an extension of the licensure deadline.

### **Discussion.**

Out of State residents enrolled in California residency programs face more delays than in-state applicants in assembling their required license application documents for the Board. The most common delay is fingerprint issues. When they are unable to obtain their Physician and Surgeon license within the 90-day application window, they must cease practice within their residency. To resolve this problem, extending the application window from 90 days to 6 months would provide more time for residents to become licensed and the Board would still retain jurisdiction over the resident for the 6-month duration of the application window. This month application window is the same as afforded the PTL applicants who are residents enrolled in California residency programs that have 6 months to obtain their PTL.

This proposed extension of time to obtain a license protects public safety because the Board has jurisdiction over the resident during the application window. This solution would eliminate the situation in which out of state residents enrolled in a California residency program would have to cease practice within their residency because they failed to obtain the required license. Extending the application would reduce stress for everyone and facilitate timely licensure to residents within California residency programs.

This extension would only apply to residents enrolled in California residency programs at the time of application for licensure. This would not apply to applicants for the Physician and Surgeon license who have completed 36 months of residency and are applying for licensure to for employment.

**Recommendation:** Approve extension of licensure deadline for out of state residents enrolled in a California residency program to obtain their Physician and Surgeon license from 90 days to 6 months.