

TITLE 16 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

(Notice published October 4, 2019)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Osteopathic Medical Board of California (Board) is proposing to adopt the proposed regulation described below in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**The Osteopathic Medical Board of California
1300 National Drive, Suite 150, Conference Room
Sacramento, CA 95834**

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on November 20, 2019, located at the Osteopathic Medical Board of California Conference Room, 1300 National Drive, Suite 150, Sacramento, CA 95834. The conference room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Written comments, including those sent by mail, facsimile, or email should be sent to the addresses listed under Contact Person in this Notice, and must be received by the Board at its office not later than 5:00 p.m. on November 19, 2019. The written comment period closes at 5:00 p.m. on November 19, 2019, or comments must be received at the hearing. The Board will consider only comments received at the Board office by that time.

The Board, upon its own motion or at the insistence 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

The Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), section 1, and sections 2018, and 3600-1 of the Business and Professions Code, authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific section 2064.5 of the Business and Professions Code (BPC).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action seeks to amend section 1690 of the California Code of Regulations (CCR), Division 16 of Title 16 to add a new fee for a Postgraduate Training License (PTL) pursuant to BPC section 2064.5, which authorizes the Board to charge a non-refundable application and processing fee to obtain a PTL. Pursuant to BPC section 2064.5, the PTL expires not later than 90 days after a licensee completes 36 months of postgraduate training. The license would not be renewable. No other fees would be charged for this license.

Pursuant to BPC section 2064.5, the requirement for a PTL would become effective January 1, 2020.

Chapter 775, Statutes 2017 (Hill, SB 798) and Chapter 571, Statutes 2018 (Hill, SB 1480) requires the Board to create a new license type and authorizes the Board to charge a non-refundable application and processing fee to cover the costs of implementation and ongoing workload for this new license type. The Board estimates the total cost of implementing and ongoing management of this new license type is \$145,000 per year. The proposed fee amount is \$491 and will generate a total of \$145,827 the first year. The Board estimates that the number of trainees will increase by ten percent each year, which will in turn increase revenue for this license. In setting the proposed fee amount of \$491, the Board balanced the interests of the Board's fiscal need to charge a fee that covers the increased expenditures with the interests of the postgraduate training programs. The Board also felt comfortable with the fact that the fee will offset the increased expenditures (\$145,827 out of the projected \$145,000 increased expenditure).

Benefit of the Regulation

The fee will generate revenue that the Board needs to provide this new license. Without the fee, the added expenditures would exacerbate the Board's structural deficit. Additionally, the increased revenue will ensure that the Board can appropriately regulate and enforce the PTL license. This will be consistent with the Board's mission of protecting the public.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Board has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that these are the only regulations that impose a fee to obtain a PTL.

DISCLOSURES REGARDING THE PROPOSED ACTION

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 Which Must be Reimbursed in Accordance with Government Code Sections 17500 – 17630.

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. This fee will only impact individual postgraduate trainees, not businesses. No other businesses or individuals will be impacted by this fee. The Board estimates the number of postgraduate trainees to be subject to this fee to be approximately 297 the first year and thereafter increase ten percent each year.

Cost Impact on Representative Private Person or Business.

Postgraduate trainees would be required to pay the \$491 application fee. The Board is not otherwise aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This fee only applies to postgraduate trainees in a training program, who would be required to pay a non-refundable application and processing fee to obtain a required PTL from the Board. The Board estimates that there will be approximately 297 trainee applicants subject to this fee in the first year, with a ten percent increase each year thereafter. No other individuals or businesses will be impacted by this fee.

Effect on Housing Costs.

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect any small businesses. The fee only impacts osteopathic postgraduate trainees, which are not small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has made an initial determination that the proposed regulatory action would not have any statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts and analysis.

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This fee is nominal and will only be charged to approximately 297 osteopathic postgraduate trainees.

Benefits of Regulation:

The fee will generate revenue the Board needs to offset the costs of providing a new license. Without the fee, the added expenditures would exacerbate the Board's structural budget deficit. The Board has determined that this regulatory proposal will ensure that the Board can appropriately regulate and enforce the PTL license. This is consistent with the Board's mission of protecting the public. This regulatory proposal will have no effect on worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the Board's attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the afore-mentioned hearing.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the contact person named below or by accessing the Board's website: <http://www.ombc.ca.gov>.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has made available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, 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 Contact Person listed below or by accessing the Board's website: <http://www.ombc.ca.gov>.

CONTACT PERSON

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

Name: Terri Thorfinnson, Assistant Executive Director
1300 National Drive, Suite 150,
Sacramento, CA 95834
Phone: (916) 928-8390
Fax: (916) 928-8392
Email: Terri.Thorfinnson@dca.ca.gov

The backup contact person is:

Name: Machiko Chong, Executive Analyst
1300 National Drive, Suite 150,
Sacramento, CA 95834
Phone: (916) 928-8390
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Website Access: Materials regarding this proposal can be found on the Board's website at <http://www.ombc.ca.gov>.