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Business, Consumer Services and Housing Agency
Department of Consumer Affairs
Gavin Newsom, Governor



To: Board Members

Subject: Agenda Item V. Update, Discussion and Possible Action Related to Proposed Regulations, Title 16, California Code of Regulations, section 1706.6, Related to Temporary License for Military Spouses.

Background:

In July 2023, following a 45-day and 15-day public comment period, the regulation text to add Section 1706.6 related to Temporary License for Military Spouses was adopted. This proposal defines the provisions for military spouses and partners to obtain a temporary license.

On October 18, 2023, the final rulemaking package was submitted to the Office of Administrative Law (OAL) for formal review. Following their review, OAL has requested amendments to the regulatory text to ensure compliance with the Administrative Procedure Act (APA) and the requirements of Business and Professions Code (BPC) section 115.6.

Specifically, OAL has requested the following edits:

- Adding back into the regulation text the definition of “good standing,” which mirrors the language of BPC section 115.6 for clarity to the regulated public.
- Relocation of the definition of “license” from subdivision (b)(3) to subdivision (a) so that all definitions are located within the same subdivision.
- Addition of “if applicable” to subdivision (b)(1)(A) before suffix as not all applicants may have a suffix.
- Subdivisions (b)(4) and (b)(5) have been amended. BPC 480(f)(2) prohibits the Board from requiring disclosure of any information or documentation regarding an applicant’s criminal history. As such, the subdivisions were amended and read as follows:
 - *(b)(4) The applicant shall attest that the applicant meets all of the requirements for temporary licensure as set forth in Business and Professions Code Section 115.6 (c)(1) through (5), including that the applicant has not committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under the Business and Professions Code or this division at the time the act was committed and that the applicant is aware that a*

violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the Board of Pharmacy.

- *(b)(5) The applicant shall also attest that the applicant has not been disciplined by a licensing entity in another jurisdiction or and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.*
- Addition of “upon issuance or denial of a license by endorsement” to subdivision (d)(2). While the Board does not license by endorsement, the addition of this language is necessary to meet the duplication standard of the APA as the language is part of the statute.
- Non-substantive edits with respect to grammar, punctuation, and the reference section at the bottom of the regulation text.

At this Meeting:

The Board will have the opportunity to discuss the changes requested by OAL and initiate a 15-day comment period as requested by OAL. Attached following this memo is the amended regulation text as recommended by Board staff and OAL.

Possible Amendment Language:

Approve the amended regulation text and initiate a 15-day comment period. Additionally, if no adverse comments are received during the 15-day comment period, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1706.6 as noticed. Further, delegate to the executive officer the authority to make technical or non-substantive changes as may be required by the Control agencies to complete the rulemaking file.

Title 16. Board of Pharmacy
Second Modified Text

Proposed changes made to the current regulation language are shown by ~~double strikethrough~~ for deleted language and double underline for added language.

Additional proposed changes made to the current regulation language are shown by ~~**bold italic double strikethrough**~~ for deleted language and **bold italic wavy underline** for added language.

Add section 1706.6 to Article 1 of Division 17 of Title 16 of the California Code of Regulations to read as follows:

§ 1706.6. Temporary Licenses for Military Spouses/Domestic Partners

(a) Definitions: For the purposes of this section, the following definitions shall apply:

- (1) “Disciplined” means that the applicant’s license was placed on probation, revoked, suspended, reprovved, censured, reprimanded, restricted, limited, or conditioned.
- (2) “Jurisdiction” shall mean a California or another state’s licensing board or agency, any agency of the federal government, or another territory of the United States.
- (3) “Disciplinary proceeding” shall mean any proceeding or investigation under the authority of the licensing jurisdiction pursuant to which a licensee may be disciplined.
- ~~(4) “Good standing” shall mean that the applicant has not been disciplined, is not the subject of an unresolved complaint or review procedure and is not the subject of any unresolved disciplinary proceeding.~~
- (5) “Original licensing jurisdiction” shall mean the entity that issued a license to the applicant authorizing the applicant to practice within the same scope for which the applicant seeks a temporary license from the Board.
- ~~(6) “License” shall mean a license of the same type that the applicant is applying for, or comparable authority to practice in another state, district, or territory of the United States.~~

(b) An applicant for a ~~temporary~~ pharmacist, advanced practice pharmacist, pharmacy technician, designated representative, designated representative-reverse distributor, designated representative-3PL, or a designated paramedic ~~temporary~~ license pursuant to section 115.6 of the Business and Professions Code (“Code”) shall submit a completed application to the Board and meet all of the requirements of this section and section 115.6 of the Code to be eligible for a temporary license. A completed application shall provide the following information:

(1) The applicant’s identifying and contact information:

- (A) Applicant's full legal name ((Last Name) (First Name) (Middle Name) and, ~~for~~ if applicable, (Suffix)),
- (B) Other name(s) applicant has used or has been known by,
- (C) Applicant's address of record (The address of record may be a post office box number or other alternate address.),
- (D) Applicant's physical address, if different than the applicant's address of record,
- (E) Applicant's email address,
- (F) Applicant's telephone number,
- (G) Applicant's Social Security Number or Individual Taxpayer Identification Number, and,
- (H) Applicant's birthdate (month, day, and year).
- (2) The applicant shall indicate that the applicant is married to, or in a domestic partnership or other legal union with, an active-duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active-duty military orders and shall provide the following documentation with the application:
- (A) Certificate of marriage or certified declaration/registration of domestic partnership filed with the California Secretary of State or other documentary evidence of legal union with an active-duty member of the Armed Forces, and,
- (B) A copy of the military orders establishing their spouse or partner's duty station in California.
- (3) The applicant shall disclose whether the applicant holds a current, active, and unrestricted license ~~of the same type of license that the applicant is applying for, or comparable authority to practice in another state, district, or territory of the United States,~~ and provide written verification from the applicant's original licensing jurisdiction that the applicant's license or other comparable authority ("~~license~~") is in good standing ~~in under~~ that jurisdiction. The verification shall include all of the following:
- (A) the full legal name of the applicant and any other name(s) the applicant has used or has been known by,
- (B) the license type and number issued to the applicant by the original licensing jurisdiction, and relevant law(s) and regulation(s) under which the license was issued,
- (C) the name and location of the licensing agency,
- (D) the issuance and expiration date of the license, and,

(E) information showing that the applicant's license is currently in good standing.

~~(4) The applicant shall disclose whether the applicant has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license pursuant to Sections 141, 480, or 490 of the Code, or Sections 4300, 4301, or 4311 of the Code, or section 1762 of this Division. For applicants for a temporary pharmacist license, those applicants shall also disclose whether the applicant has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license pursuant to Sections 4305 or 4306.5 of the Code.~~

~~(4) The applicant shall attest that the applicant meets all of the requirements for temporary licensure as set forth in Business and Professions Code Section 115.6 (c)(1) through (5), including that the applicant has not committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under the Business and Professions Code or this division at the time the act was committed and that the applicant is aware that a violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the Board of Pharmacy.~~

~~(5) The applicant shall also attest that disclose whether the applicant has not been disciplined by a licensing entity in another jurisdiction or and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.~~

~~(6) The applicant shall submit fingerprints for use by and accessible to the Board in conducting criminal history information record checks through the California Department of Justice.~~

~~(7) For applicants for a temporary pharmacist license, the applicant has successfully completed the California Practice Standards and Jurisprudence Examination (CPJE).~~

~~(8) The applicant shall sign a statement attesting to the fact that the applicant meets all the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge.~~

~~(c) In addition to the above requirements, and prior to submission of the application specified in subsection (b), applicants for a temporary pharmacist license must successfully complete the Board's law and ethics examination designated as the California Practice Standards and Jurisprudence Examination (CPJE) for Pharmacists set forth in Section 4200 of the Code, which tests the applicant's knowledge and proficiency in state and federal laws and provisions of safe patient care, and the items set forth in Section 4200.2 and 4200.3 (d) of the Code.~~

~~(d) Upon issuance of a temporary license in accordance with Section 115.6(a) of the Code, the Board shall provide written notice to the applicant of the following:~~

- (1) That the temporary license is nonrenewable;
- (2) That the license expires 12 months after issuance, upon issuance or denial of a standard license, *upon issuance or denial of a license by endorsement*, or upon issuance or denial of an expedited license pursuant to Section 115.5 of the Code, whichever occurs first; and,
- (3) Any holder of a temporary license desiring to continue their licensure or to practice in California after expiration of their temporary license shall apply for and obtain a standard pharmacist, advanced practice pharmacist, pharmacy technician, designated representative, designated representative-reverse distributor, designated representative-3PL, or a designated paramedic license, as applicable, in accordance with Sections 4200, 4202, 4210, 4053, 4053.1, 4053.2, and 4202.5 of the Code.

Authority: Sections 115.6 and 4005, Business and Professions Code.

Reference: Sections 30, ~~31~~, 115.6, ~~141~~, 480, ~~490, 4026.5~~, 4200, ~~4300, 4301, 4301.5, 4305, 4306.5, and 4311~~, Business and Professions Code.