

## TITLE 16. BOARD OF PHARMACY

### NOTICE OF PROPOSED REGULATORY ACTION CONCERNING: Temporary Licenses for Military Spouses/Domestic Partners

**NOTICE IS HEREBY GIVEN** that the California State Board of Pharmacy (board) proposes taking the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 by May 30, 2023.

The board has not scheduled a public hearing on this proposed action. The board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or that person's authorized representative, no later than 15 days prior to the close of the written comment period.

The board may, after holding a hearing if requested and considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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: Authority: Sections 115.6 and 4005, Business and Professions Code. Reference: Section 30, 31, 115.6, 141, 480, 490, 4200, 4300, 4301, 4301.5, 4305, 4306.5, and 4311, Business and Professions Code.

#### **Informative Digest/Policy Statement Overview**

The board is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, interns, and pharmacy technicians. The board's mandate and its mission is to protect the public (BPC § 4001.1).

Currently under BPC, section 115.6, some boards under the jurisdiction of Department of Consumer Affairs may issue temporary licenses to an applicant, if the applicant meets specified requirements, including, among other things, that 1) 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 this state under official active duty military orders; 2) the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license; and the applicant submits a signed affidavit attesting to meeting the requirements of the temporary license.

Assembly Bill 107 (Chapter 693, Statutes 2021), effective July 1, 2023, expanded upon the existing requirements and will require the board to issue temporary licenses to qualified military spouses and partners under specified conditions, including completion of an appropriate background check, which may include a criminal background check, submission of supporting documentation, as specified, and passing the California law and ethics exam if otherwise required for an applicant seeking licensure.

This proposal will add section 1706.6 to Article 1 of Division 17 of Title 16 of the California Code of Regulations to define the provisions that must be met in order to obtain a temporary license, as the statute itself was not self-executing.

### **Anticipated Benefits of the Proposed Regulations**

The proposed regulation will provide clarity to the regulated public on the requirements to qualify and apply for a temporary license. This will expedite licensure processes, eliminate barriers to employment, and increase the number of licensed healthcare individuals in the field of pharmacy in California. This is consistent with the mission of the board, which is consumer protection.

### **Consistency and Compatibility with Existing State Regulations**

While developing these regulations, the board conducted a search of similar regulations on this topic and concluded that regulations need to be added to establish the perimeters to issue temporary professional licenses to spouses/domestic partners of active-duty military assigned to a California base.

### **Fiscal Impact and Related Estimates**

Fiscal Impact on Public Agencies Including Costs/Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in a fiscal impact to the state.

The board does not anticipate an increase in the number of military spouse applications submitted to the board per year resulting from the regulations, and no additional workload or costs are projected.

However, the board does project an increase in the issuance of a temporary licenses to military spouse and domestic partners to implement the provisions of Assembly Bill 107 and received additional resources during the 2022-23 budget cycle for these purposes.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact:

The board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on the following facts:

This initial determination is based on the absence of testimony to that effect during the public discussion and development of the proposed amendments to the regulation. Additionally, the regulations are establishing the parameters to issue temporary licenses to specific individuals and not businesses.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None

**Effect on Small Business:**

While the board does not have, nor does it maintain, data to determine if any of its licensees (pharmacies and clinics) are a “small business,” as defined in Government Code section 11342.610, the board has made an initial determination that the proposed regulatory action will not affect small businesses as the regulations are establishing the parameters to issue temporary licenses to specific individuals and not businesses.

**Results of Economic Impact Assessment/Analysis:**

Impact on Jobs/New Businesses:

The Board concludes that:

- (1) this proposal will not create jobs within California;
- (2) this proposal will not eliminate jobs within California;
- (3) this proposal will not create new businesses within California;
- (4) this proposal will not eliminate existing businesses within California; and,
- (5) this proposal will not expand businesses currently doing business in the State of California.

The board has determined that this regulatory proposal benefits the health and welfare of California residents by increasing the availability of the licensed healthcare individuals that can provide patient-centered care. The proposed regulation will not impact workers safety or the environment.

### **Consideration of Alternatives**

The board must determine that no reasonable alternative that 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, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments in writing relevant to the above determinations at the address listed for the Contact Person during the written comment period.

### **Availability of Text of Proposal and Initial Statement of Reasons**

The board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board of Pharmacy at 2720 Gateway Oaks Drive, Ste. 100, Sacramento, California 95833, or from the Board of Pharmacy's website at <http://www.pharmacy.ca.gov>.

### **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 website listed below.

### **Contact Person**

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

Name: Lori Martinez  
Address: 2720 Gateway Oaks Drive, Ste. 100  
Sacramento, CA 95833

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Fax No.: (916) 574-8618  
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Name: Anne Sodergren  
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### **Website Access**

Materials regarding this proposal can be found at the Board of Pharmacy's website:  
[https://www.pharmacy.ca.gov/laws\\_regs/pending\\_regs.shtml](https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml).