

Board of Pharmacy
Initial Statement of Reasons

Subject Matter of Proposed Regulation: Temporary Licenses for Military Spouses and Partners

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

Background

The California State Board of Pharmacy (board) is a state agency vested with the authority to regulate the pharmacy industry, including pharmacies, pharmacists, pharmacy interns, and pharmacy technicians. The board's mandate and its mission is to protect the public (Business and Professions Code (BPC) section 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.

Problems Addressed

When active-duty members of the military receive orders to relocate to California, military spouses who travel with their partner are required to apply for a new license, despite being licensed in a different state. This process can be long, expensive, and onerous, and military spouses may have to undergo this process multiple times.

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.

Specific Purpose of Proposed Changes and Rationale

The board's proposal makes the following addition:

Add Section 1706.6, subsection (a) – (a)(1-5).

This section adds definitions consistent with existing definitions as outlined in Article 1 of Division 17 of Title 16 of the California Code of Regulations. Adding the definitions ensures that the regulated public understands the terminology used within the regulation text and the board's meaning of the terminology.

Add Section 1706.6, subsection (b).

This section adds language consistent with statutory requirements of BPC 115.6. The section identifies the individual licenses issued by the board that are eligible for a temporary license. This section is necessary to provide clarity to the regulated public on the type of temporary licenses the board will issue.

Add Section 1706.6, subsections (b)(1) – (1)(A-H).

This section adds language to specify the identifying and contact information an applicant must provide, including name, address(es), email address, telephone number, social security number/tax identification number, and date of birth. This information is necessary to ensure the legal identify of the applicant, as well as ensure appropriate contact information in provide so that the board can communicate timely with the applicant about their application and subsequent temporary license.

Add Section 1706.6, subsection (b)(2) – (2)(A-B).

This section adds language consistent with statutory requirements of BPC 115.6. The section identifies the requirement for the applicant to indicate their eligibility for a military spouse/domestic partnership temporary license. Additionally, the section identifies the specific documents applicants must provide to support that they meet the requirements to be issued a temporary license, including marriage certificate or domestic partnership registration, and a copy of the military orders. These documents are necessary to ensure that the board is appropriately vetting the applications received and ensuring that only those eligible for a temporary license are being issued the temporary license.

Add Section 1706.6, subsection (b)(3) – (3)(A-E).

This section adds language consistent with statutory requirements of BPC 115.6. The section identifies the requirement for the applicant to disclose whether they have the same type of license in good standing within another jurisdiction. Additionally, the section identifies the requirement to provide a license verification from that jurisdiction

and the minimum requirements that the license verification must contain, including the full name of the applicant, the license type and number, the name and location of the licensing jurisdiction, the issuance and expiration date of the license, and information showing that the license is in good standing. These specific requirements are necessary within the license verification to ensure that the license verification is for the applicant, is for the same type of license, and that the license is in good standing. This ensures that the board is appropriately vetting the applications received and that only those eligible for a temporary license are being issued the temporary license.

Add Section 1706.6, subsection (b)(4).

This section adds language consistent with statutory requirements of BPC 115.6(c)(4), which specifies that the applicant shall not have committed an act that would constitute grounds for denial. For clarity, the section includes reference to the BPC sections that identify the acts that constitute grounds for denial, suspension, or revocation.

Add Section 1706.6, subsection (b)(5).

This section adds language consistent with statutory requirements of BPC 115.6(c)(5), which specifies that the applicant shall not have committed an act that would constitute grounds for denial. For clarity, the section includes reference to the BPC sections that identify the acts that constitute grounds for denial, suspension, or revocation. This section duplicates the language from the statute. Such duplication is necessary to ensure all requirements for a temporary license are in one location, thus providing further clarity.

Add Section 1706.6, subsection (b)(6).

This section adds language consistent with statutory requirements of BPC 115.6(c)(6)(A)-(B), which specifies that the applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check. This section is added to ensure that the regulated public is aware that the board is requiring fingerprints be submitted to the board in order to obtain a temporary license.

Add Section 1706.6, subsection (b)(7).

Subsection (b)(7) is added to establish the testing requirements for the pharmacist applicant, as required by the board. To safeguard the consumer, and ensure the temporary license received is consistent with current laws and regulations of the State of California and the board, the applicant for a temporary license shall be required to complete the California Practice Standards and Jurisprudence Examination (CPJE), which is the California law and ethics examination for pharmacists as required by BPC 4200(a)(6). The requirement to take the California law and ethics examination for a temporary license is specified in BPC 115.6(d).

Add Section 1706.6, subsection (b)(8).

This section adds language consistent with statutory requirements of BPC 115.6(c)(3). The section identifies the requirement for the applicant to submit a signed affidavit attesting to the fact that the applicant meets the requirements for a temporary license and the information submitted is accurate. This section duplicates the language from the

statute. Such duplication is necessary to ensure all requirements for a temporary license are in one location.

Add Section 1706.6, subsection (c).

This section specifies that applicants for a temporary pharmacist license must first apply for and successfully complete the board's law and ethics examination designated as the California Practice Standards and Jurisprudence Examination (CPJE) for Pharmacists. The requirement to take the exam prior to applying for the temporary license is necessary as the board must issue the temporary license within 30 days of receipt of the application for a temporary license. As the pharmacist examination is only offered on specific days, and pre-registration is required to take the pharmacist examination, it is necessary for these individuals to take the pharmacist examination pursuant to BPC 4200 prior to submission of the temporary application. This will safeguard consumers and ensure that temporary pharmacist licenses are issued consistent the requirements of BPC 115.6.

Add Section 1706.6, subsection (d) – (d)(1-2).

This section adds language consistent with statutory requirements of BPC 115.6(h)(5), which specifies that temporary licenses are non-renewable and only valid for twelve months or upon the issuance or denial of the standard/expedited license. This section duplicates the language from the statute. Such duplication is necessary to ensure all requirements for a temporary license are in one location.

Add Section 1706.6, subsection (c)(3).

This section adds language to clarify that those issued temporary licensing must apply for and obtain a standard license if they wish to continue their licensure or continue to practice after the expiration date of the temporary license. This section provides increased clarity to the regulated public on what is required should they wish to maintain licensure after the 12-month temporary licensure period.

Underlying Data

1. Assembly Bill (AB) 107 (Salas, Statutes of 2021, Chapter 693).
2. Relevant Meeting Materials and Meeting Minutes from Board of Pharmacy Meeting held July 27-28, 2022 (Meeting Materials (Licensing Committee, Pages 1, 3-4, and Attachment 2), Minutes Pages (1, 22-26)).
3. Relevant Meeting Materials and Excerpt of Meeting Minutes from Board of Pharmacy Meeting held October 26-27, 2022 (Meeting Materials (Agenda item VIII)).

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 absence of testimony to that effect during the public discussion and development of the proposed regulation. Additionally, the proposed regulations establish parameters for military spouses and domestic partners to obtain a temporary license is a expedite licensure process. This proposal only impacts individuals and will not impact businesses.

Economic Impact Assessment:

The board has determined 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;
- (5) this proposal will not expand businesses currently doing business in the State of California.

This proposal will not create or eliminate jobs and/or businesses within California. Additionally, this proposal will not expand businesses because this regulatory proposal only establishes requirements for certain individuals to obtain a temporary license to practice pharmacy in California. While the issuance of a temporary license will increase the number of licensed individuals, an increase in licensees does not translate into an increase or decrease in the number jobs or business.

This regulatory proposal benefits the health and welfare of California residents because an increase in licensees, means an increase in the number of individuals available to provide patient care within pharmacies.

This regulatory proposal does not affect worker safety because this proposal is not relevant to worker safety. This initial determination is based on the fact that the proposed regulation only establishes the parameters of specific individuals to obtain a temporary license to practice pharmacy in California.

The regulatory proposal does not affect the state's environment the proposed regulation only establishes the parameters of specific individuals to obtain a temporary license to practice pharmacy in California.

Fiscal Impact Assessment:

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 costs or revenues 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.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. The board considered not adopting the proposed regulation; however, the board determined that alternative was not reasonable as potential applicants would not have the necessary information to complete the application process.