

TEXAS MEDICAL BOARD RULES
Texas Administrative Code, Title 22, Part 9
Proposed Changes

Chapter 187

Procedural Rules

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187.13. Informal Board Proceedings Relating to Licensure Eligibility.

(a) Recommendations by the Executive Director.

(1) The executive director shall review applications for licensure and may determine whether an applicant is eligible for licensure or refer an application to a committee of the board for review. If an applicant is determined to be ineligible for a license by the executive director pursuant to 155.001 - 155.152 of the Act, Chapter 163 of this title (relating to Licensure), Chapter 171 of this title (relating to Postgraduate Training Permits), or Chapter 172 of this title (relating to Temporary and Limited Licenses) the applicant may request review of that determination by a committee of the board. The applicant must request the review not later than the 20th day after the date the applicant receives notice of the determination.

(2) To promote the expeditious resolution of any licensure matter, the executive director with the approval of the board, may recommend that an applicant be eligible for a license, but only under certain terms and conditions and present a proposed agreed order or remedial plan to the applicant.

(A) If the proposed agreed order or remedial plan is acceptable to the applicant, the applicant shall sign the order/remedial plan and the order/remedial plan shall be presented to the board for consideration and acceptance without conducting an informal board proceeding relating to licensure eligibility.

(B) If the proposed agreed order or remedial plan is not acceptable to the applicant, the applicant may request review of the executive director's recommendation by a committee of the board. The applicant must request review not later than the 20th day after the date the applicant receives notice of the executive director's recommendation.

(b) Determination by a Committee of the Board. Upon review of an application for licensure, a committee of the board may determine that the applicant is ineligible for licensure or is eligible for licensure with or without restrictions, eligible for licensure under a remedial plan, or defer its decision pending further information.

(1) Licensure with Terms and Conditions.

(A) If the committee determines that the applicant should be granted a license under certain terms and conditions based on the applicant's commission of a prohibited act or failure to demonstrate compliance with provisions under the Act or board rules, the committee, as the board's representatives, shall propose an agreed order or a remedial plan. The terms and conditions of the proposed agreed order or remedial plan shall be submitted to the board for approval.

(B) Upon an affirmative majority vote of members present, the board may approve the agreed order or remedial plan with or without modifications, and direct staff to present the order to the applicant.

(i) If the applicant agrees to the terms of the proposed agreed order or remedial plan, the applicant may be licensed upon the signing of the order or remedial plan by the applicant and the president of the board or the president's designee, and passage of the medical jurisprudence examination, if applicable.

(ii) If the applicant does not agree to the terms of the proposed agreed order or remedial plan, the applicant is considered ineligible for licensure.

(C) If the board does not approve the proposed agreed order or remedial plan and by majority vote determines the applicant ineligible for licensure, the applicant shall be so informed. The board must specify their rationale for the rejection of the proposed agreed order or remedial plan that shall be referenced in the minutes of the board.

(2) Ineligibility Determination.

(A) If a committee of the board or the full board determines that an applicant is ineligible for licensure either outright or due to the applicants failure to comply with a Board determination, the applicant shall be notified of the committee's determination and given the option of appealing the determination to State Office of Administrative Hearings (SOAH), accepting the determination of ineligibility that will be reported to the appropriate entities and national databanks, or withdrawing the application. An applicant has 20 days from the date the applicant receives notice of the committee's determination to submit a response to the Board electing one of the three options..

(B) If the applicant timely requests a SOAH hearing the applicant must file a petition with SOAH appealing the determination and shall comply with all other provisions relating to formal proceedings as set out in Subchapter D[the matter shall be referred to the agency's legal division]. An applicant may not request withdrawal of an application once the applicant has requested that the matter be referred to SOAH. If an applicant subsequently withdraws the appeal, the matter shall be referred to the full board to render a final determination on the application. An application for licensure shall not expire while the application is the subject of a contested case, however, applicants shall be required to update any information that is a part of their applications.

(C) If the applicant does not timely take action as required in 187.13(b)(2)(A), the committee's determination shall be submitted to the full board and shall become administratively final at the next scheduled board meeting.

~~[(D) If an applicant is determined ineligible for licensure, the applicant may request a rehearing of the application before a committee of the board. The request must be made within 20 days receipt of notice of the committee's initial determination of ineligibility. It is at the discretion of the committee whether to grant a rehearing. The request for rehearing must be based on information not previously presented to or considered by the board.]~~