

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

Chapter 171

Postgraduate Training Permits

Page 1 of 9

Draft – July 22, 2011

V3-171-Draft

Chapter 171. Postgraduate Training Permits
§§171.1-171.7

§171.1. Purpose.

Pursuant to the Board's authority under Tex. Occ. Code §155.105 of the Medical Practice Act, this chapter is promulgated to:

- (1) Provide criteria for the eligibility and discipline of physicians who apply for and are granted physician-in-training permits; and
- (2) Set forth conduct that must be reported on all individuals who are in postgraduate training in order to protect public health and welfare.

§171.2. Construction.

(a) Unless otherwise indicated, permit holders under this chapter shall be subject to the duties, limitations, disciplinary actions, rehabilitation order provisions, and procedures applicable to licensees in the Medical Practice Act and board rules. Permit holders under this chapter shall also be subject to the limitations and restrictions elaborated in this chapter.

(b) Permit holders under this chapter shall cooperate with the board and board staff involved in investigation, review, or monitoring associated with the permit holder's practice of medicine. Such cooperation shall include, but not be limited to, permit holder's written response to the board or board staff written inquiry within 14 days of receipt of such inquiry.

(c) A physician-in-training permit holder's failure to comply with required annual reporting is grounds for disciplinary action by the Board.

(d) In accordance with §155.105 of the Medical Practice Act, the board shall retain jurisdiction to discipline a permit holder whose permit has been terminated, canceled, and/or expired if the permit holder violated the Medical Practice Act or board rules during the time the permit was valid.

(e) The issuance of a permit to a physician shall not be construed to obligate the board to issue the physician subsequent permits or licenses. The board reserves the right to investigate, deny a permit or full licensure, and/or discipline a physician regardless of when the information was received by the board.

§171.3. Physician-in-Training Permits.

(a) Definitions.

(1) Approved Postgraduate Training Program: a clearly defined and delineated postgraduate medical education training program, including postgraduate subspecialty training programs, approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), the Committee on Accreditation of Preregistration Physician Training Programs, the Federation of Provincial Medical Licensing Authorities of Canada (internships prior to 1994), the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

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

Chapter 171

Postgraduate Training Permits

Page 2 of 9

Draft – July 5, 2011

V2-171 Draft

(2) Board-approved Fellowship: a clearly defined and delineated postgraduate subspecialty-training program approved by the Texas Medical Board under §171.4 of this title.

(3) Designated Institutional Official (DIO): The individual in a sponsoring graduate medical education institution who has the authority and responsibility for the graduate medical education programs.

(4) Fellowship: A subspecialty training program of graduate medical education for postgraduate residents who have completed the requirements for eligibility for first board certification in the specialty and that is approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), a member board of the American Board of Medical Specialties (ABMS), or a member board of the Bureau of Osteopathic Specialists (BOS).

(5) Postgraduate Resident: a physician who is in postgraduate training as an intern, resident, or fellow in an approved postgraduate training program or a board-approved fellowship.

(6) Physician-in-Training Permit:

(A) A physician-in-training permit is a permit issued by the board in its discretion to a physician who does not hold a license to practice medicine in Texas and is enrolled in a training program as defined in paragraphs (1), (2), and (4) of this subsection in Texas, regardless of his/her postgraduate year (PGY) status within the program.

(B) The permit shall be effective for the length of the postgraduate training program as reported by the training program.

(C) A physician-in-training permit is valid only for the practice of medicine within the training program for which it was approved. If a permit holder enters into a new program that is not covered by the issued permit, the permit shall be terminated and the permit holder must apply for a new permit for the new program.

(D) A physician-in-training permit holder is restricted to the supervised practice of medicine that is part of and approved by the training program. The permit does not allow for the practice of medicine that is outside of the approved program.

(7) Subspecialty-Training Program--A postgraduate training program, also known as a fellowship, entered into after the completion of a residency program that provides advanced graduate medical education in a narrow field of study within a medical specialty.

(b) Qualifications of Physician-in-Training Permit Holders.

(1) To be eligible for a physician-in-training permit, an applicant must present satisfactory proof to the board that the applicant:

(A) is at least 18 years of age;

(B) is of good professional character and has not violated §§164.051 - 164.053 of the Medical Practice Act;

(C) is a graduate of a medical school or has completed a Fifth Pathway Program;

(D) has been accepted into an approved postgraduate training program, a board-approved postgraduate fellowship training program, or a fellowship meeting the criteria set forth in subsection (a)(4) of this section; and

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

Chapter 171

Postgraduate Training Permits

Page 3 of 9

Draft – July 5, 2011

V2-171 Draft

(E) has been credentialed by the postgraduate training program to include verification by the program of:

(i) the applicant's identity; and
(ii) the applicant's character and academic qualifications including verification of medical school graduation.

(2) To be eligible for a physician-in-training permit, an applicant must not have:

(A) a medical license, permit, or other authority to practice medicine that is currently restricted for cause, canceled for cause, suspended for cause, revoked or subject to another form of discipline in a state or territory of the United States, a province of Canada, or a uniformed service of the United States;

(B) an investigation or proceeding pending against the applicant for the restriction, cancellation, suspension, revocation, or other discipline of the applicant's medical license, permit, or authority to practice medicine in a state or territory of the United States, a province of Canada, or a uniformed service of the United States;

(C) a prosecution pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony, a misdemeanor that involves the practice of medicine, or a misdemeanor that involves a crime of moral turpitude.

(c) Application for Physician-in-Training Permit.

(1) Application Procedures.

(A) Applications for a physician-in-training permit shall be submitted to the board no earlier than the 120th day prior to the date the applicant intends to begin postgraduate training in Texas to ensure the application information is not outdated. To assist in the expedited processing of the application, the application should be submitted as early as possible within the sixty-day window prior to the date the applicant intends to begin postgraduate training in Texas.

(B) The board may, in unusual circumstances, allow substitute documents where exhaustive efforts on the applicant's part to secure the required documents is presented. These exceptions shall be reviewed by the board's executive director on a case-by-case basis.

(C) For each document presented to the board, which is in a foreign language, an official word-for-word translation must be furnished. The board's definition of an official translation is one prepared by a government official, official translation agency, or a college or university official, on official letterhead. The translator must certify that it is a "true translation to the best of his/her knowledge, that he/she is fluent in the language, and is qualified to translate." He/she must sign the translation with his/her signature notarized by a Notary Public. The translator's name and title must be typed/printed under the signature.

(D) The board's executive director shall review each application for training permit and shall approve the issuance of physician-in-training permits for all applicants eligible to receive a permit. The executive director shall also report to the board the names of all applicants determined to be ineligible to receive a permit, together with the reasons for each recommendation. The executive director may refer any application to a committee or panel of the board for review of the application for a determination of eligibility.

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

Chapter 171

Postgraduate Training Permits

Page 4 of 9

Draft – July 5, 2011

V2-171 Draft

(E) An applicant deemed ineligible to receive a permit by the executive director may request review of such recommendation by a committee or panel of the board within 20 days of written receipt of such notice from the executive director.

(F) If the committee or panel finds the applicant ineligible to receive a permit, such recommendation together with the reasons for the recommendation, shall be submitted to the board unless the applicant makes a written request for a hearing within 20 days of receipt of notice of the committee's or panel's determination. The hearing shall be before an administrative law judge of the State Office of Administrative Hearings and shall comply with the Administrative Procedure Act, the rules of the State Office of Administrative Hearings and the board. The board shall, after receiving the administrative law judge's proposed findings of fact and conclusions of law, determine the eligibility of the applicant to receive a permit. A physician whose application to receive a permit is denied by the board shall receive a written statement containing the reasons for the board's action.

(G) All reports and investigative information received or gathered by the board on each applicant are confidential and are not subject to disclosure under the Public Information Act, Gov't Code Chapter 552 and the Medical Practice Act, Tex. Occ. Code §§155.007(g), 155.058, and 164.007(c). The board may disclose such reports and investigative information to appropriate licensing authorities in other states.

(H) All applicants for physician-in-training permits whose applications have been filed with the board in excess of one year will be considered expired.

(I) If the Executive Director determines that the applicant clearly meets all PIT requirements, the Executive Director or a person designated by the Executive Director, may issue a permit to the applicant, to be effective on the date of the reported first date of the training program without formal board approval, as authorized by §155.002(b) of the Act.

(J) If the Executive Director determines that the applicant does not clearly meet all PIT requirements, a PIT may be issued only upon action by the board following a recommendation by the Licensure Committee, in accordance with §155.007 of the Act (relating to Application Process) and §187.13 of this title (relating to Informal Board Proceedings Relating to Licensure Eligibility).

(K) If the Executive Director determines that the applicant is ineligible for a PIT for one or more reasons listed under subsection (b)(1)(A) and (C) (E) of this section, the applicant may appeal that decision to the Licensure Committee before completing other licensure requirements for a determination by the Committee solely regarding issues raised by the determination of ineligibility. If the Committee overrules the determination of the Executive Director, the applicant may then provide additional information to complete the application, which must be analyzed by board staff and approved before a license may be issued.

(2) Physician-in-Training Permit Application. An application for a physician-in-training permit must be on forms furnished by the board and include the following:

(A) the required fee as mandated in the Medical Practice Act, §153.051 and as construed in board rules;

(B) certification by the postgraduate training program:

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

Chapter 171

Postgraduate Training Permits

Page 5 of 9

Draft – July 5, 2011

V2-171 Draft

(i) for a Texas postgraduate training program, a certification must be completed by the director of medical education, the chair of graduate medical education, the program director, or, if none of the previously named positions is held by a Texas licensed physician, the Texas Licensed physician supervising physician of the postgraduate training program on a form provided by the board that certifies that:

(I) the program meets the definition of an approved postgraduate training program in subsection (a)(1), (a)(2), and (a)(4) of this section;

(II) the applicant has met all educational and character requirements established by the program and has been accepted into the program; and

(III) the program has received a letter from the dean of the applicant's medical school that states that the applicant is scheduled to graduate from medical school before the date the applicant plans to begin postgraduate training, if the applicant has not yet graduated from medical school.

(ii) if the applicant is completing rotations in Texas as part of the applicant's residency out-of-state training program or with the military:

(I) a certification must be completed by the director of medical education, the chair of graduate medical education, the program director, or, if none of the previously named positions is held by a physician licensed in any state, the supervising physician, licensed in any state, of the postgraduate training program on a form provided by the board that certifies that:

(-a-) the program meets the definition of an approved postgraduate training program in subsection (a)(1), (a)(2), and (a)(4) of this section;

(-b-) the applicant has met all educational and character requirements established by the program and has been accepted into the program;

(-c-) the program has received a letter from the dean of the applicant's medical school which states that the applicant is scheduled to graduate from medical school before the date the applicant plans to begin postgraduate training, if the applicant has not yet graduated from medical school; and

(II) a certification by the Texas Licensed physician supervising the Texas rotations of the postgraduate training program on a form provided by the board that certifies:

(-a-) the facility at which the rotations are being completed,

(-b-) the dates the rotations will be completed in Texas, and

(-c-) that the Texas on-site preceptor physician will supervise and be responsible for the applicant during the rotation in Texas;

(C) arrest records. If an applicant has ever been arrested, a copy of the arrest and arrest disposition must be requested from the arresting authority by the applicant and said authority must submit copies directly to the board;

(D) medical records for inpatient treatment for alcohol/substance disorder, mental illness, and physical illness. Each applicant who has been admitted to an inpatient facility

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

Chapter 171

Postgraduate Training Permits

Page 6 of 9

Draft – July 5, 2011

V2-171 Draft

within the last five years for the treatment of alcohol/substance disorder, mental illness (recurrent or severe major depressive disorder, bipolar disorder, schizophrenia, schizoaffective disorder, or any severe personality disorder), or a physical illness that did or could have impaired the applicant's ability to practice medicine, shall submit documentation to include, but not limited to:

(i) an applicant's statement explaining the circumstances of the hospitalization;

(ii) all records, submitted directly from the inpatient facility;

(iii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and

(iv) a copy of any contracts signed with any licensing authority or medical society or impaired physician's committee;

(E) medical records for outpatient treatment for alcohol/substance disorder, mental illness, or physical illness. Each applicant that has been treated on an outpatient basis within the last five years for alcohol/substance abuse, mental illness (recurrent or severe major depressive disorder, bipolar disorder, schizophrenia, schizoaffective disorder, or any severe personality disorder), or a physical illness that did or could have impaired the applicant's ability to practice medicine, shall submit documentation to include, but not limited to:

(i) an applicant's statement explaining the circumstances of the outpatient treatment;

(ii) a statement from the applicant's treating physician/psychotherapist as to diagnosis, prognosis, medications prescribed, and follow-up treatment recommended; and

(iii) a copy of any contracts signed with any licensing authority or medical society or impaired physician's committee;

(F) an oath on a form provided by the board attesting to the truthfulness of statements provided by the applicant;

(G) such other information or documentation the board and/or the executive director deem necessary to ensure compliance with this chapter, the Medical Practice Act and board rules.

(d) Expiration of Physician-in-Training Permit.

(1) Physician-in-Training permits shall be issued with effective dates corresponding with the beginning and ending dates of the postgraduate resident's training program as reported to the board by the program director.

(2) Physician-in-training permits shall expire on any of the following, whichever occurs first:

(A) on the reported ending date of the postgraduate training program;

(B) on the date a postgraduate training program terminates or otherwise releases a permit holder from its training program; or

(C) on the date the permit holder obtains full licensure or temporary licensure pending full licensure pursuant to §155.002 of the Act.

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

Chapter 171

Postgraduate Training Permits

Page 7 of 9

Draft – July 5, 2011

V2-171 Draft

(3) Physician-in-training permit holders who are issued permits on or after April 1, 2005, and who require extensions to remain in a training program after a program's reported ending date must submit a written request to the board and fee, if required, along with a statement by the program director authorizing the request for the extension. Such extensions shall be granted at the discretion of the board's executive director and may not be for longer than 90 days unless good cause is shown.

(e) The executive director of the board may, in his/her discretion, issue a temporary physician-in-training permit to an applicant if the applicant and the postgraduate training program have submitted written requests. The executive director, in his/her discretion, will determine the length of the permit and may issue additional temporary physician-in-training permits to an applicant.

§171.4. Board-Approved Fellowships.

(a) The executive director may in his/her discretion, upon written request, approve fellowships as referenced in §171.3(a)(2) of this chapter. Fellowships meeting the criteria set forth in §171.3(a)(4) of this chapter do not require board approval for physician in training permits to be issued to subspecialty postgraduate residents in the fellowship. If the executive director does not recommend approval, the institution's designated institutional official (DIO) and chair of the Graduate Medical Education Committee (GMEC) may appeal to the board for its discretionary consideration of the request.

(b) The initial request for approval should be submitted to the executive director, on a form prescribed by the board, 90 days prior to the beginning date of the program to assist in the expedited processing of an application. The request must include the length of the fellowship; the length of time for which the institution is requesting approval of the fellowship itself, not to exceed five years; and other information as required by the board.

(c) Approval of fellowships requires certification by the DIO and the chair of the GMEC of the institution in which the fellowship will be conducted that the fellowship program has been evaluated and approved by the institution's graduate medical education committee. The evaluation shall include but not be limited to satisfactory demonstration to the committee of the fellowship's:

(1) goals and objectives; documented curriculum; and, qualifications of the program director and program faculty, including, but not limited to, certification by the appropriate specialty board and/or appropriate educational qualifications;

(2) process by which subspecialty postgraduate residents are selected;

(3) prerequisite requirements of the subspecialty postgraduate residents, including whether prior residency training in a related specialty is required;

(4) delineated duties and responsibilities required of subspecialty postgraduate residents in the program;

(5) number of subspecialty postgraduate residents to be enrolled each year;

(6) scholarly activity to be required of subspecialty postgraduate residents;

(7) type of supervision to be provided for subspecialty postgraduate residents;

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

Chapter 171

Postgraduate Training Permits

Page 8 of 9

Draft – July 5, 2011

V2-171 Draft

(8) requirements for the program director or supervising physician to hold a Texas license or faculty temporary license issued by the board;

(9) methods for evaluation of subspecialty postgraduate residents by the program; and

(10) progressive nature, including, but not limited to, the progressively greater responsibility of the subspecialty postgraduate residents throughout the course of the fellowship if the fellowship is over one year in length.

(d) Institutions with board-approved fellowships must determine whether to conduct internal reviews of the program at the mid-point of the program's most recent approval period.

(e) Institutions with board-approved fellowships that are eligible for accreditation as described in §171.3(a)(4) of this chapter must determine whether the fellowship should seek such accreditation rather than board approval of the fellowship.

(f) The DIO and the chair of the GMEC of the institution for which a fellowship program has been previously approved by the board must apply to have the program approved again, if the program is to continue after the expiration date. Applications for subsequent approval must comply with all requirements in this section for initial approval and must be submitted at least three months prior to the expiration of the approved program in order to prevent a lapse in time of the fellowship. Permit holders shall be allowed to complete their fellowship regardless of continuing program approval.

(g) All board-approved fellowships that subsequently become approved by the ACGME, AOA, a member board of the ABMS, or a member board of the BOS, must notify the board within 30 days of their approval. Fellowships may not be dually approved by the board and ACGME, AOA, a member board of the ABMS, or a member board of the BOS. A board-approved fellowship that becomes approved by the ACGME, AOA, a member board of the ABMS, or a member board of the BOS immediately loses its board-approved status when its new approval becomes effective through the ACGME, AOA, a member board of the ABMS, or a member board of the BOS.

§171.5. Duties of PIT Holders to Report.

(a) Failure of any PIT holder to comply with the provisions of this chapter or the Medical Practice Act §160.002 and §160.003 may be grounds for disciplinary action as an administrative violation against the PIT holder.

(b) The PIT holder shall report in writing to the executive director of the board the following circumstances within thirty days of their occurrence:

(1) the opening of an investigation or disciplinary action taken against the PIT holder by any licensing entity other than the TMB;

(2) an arrest; a fine, citation or violation over \$250 (excluding traffic tickets, unless drugs or alcohol were involved); charge or conviction of a crime; indictment; imprisonment; placement on probation; or receipt of deferred adjudication; and

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

Chapter 171

Postgraduate Training Permits

Page 9 of 9

Draft – July 5, 2011

V2-171 Draft

(3) diagnosis or treatment of a physical, mental or emotional condition, which has impaired or could impair the PIT holder's ability to practice medicine.

§171.6. Duties of Program Directors to Report.

(a) Failure of any postgraduate training program director to comply with the provisions of this chapter or the Medical Practice Act §160.002 and §160.003 may be grounds for disciplinary action as an administrative violation against the program director.

(b) The director of each approved postgraduate training program shall report in writing to the executive director of the board the following circumstances within thirty (30) days of the director's knowledge for all participants completing postgraduate training:

(1) if a physician did not begin the training program due to failure to graduate from medical school as scheduled or for any other reason(s);

(2) if a physician has been or will be absent from the program for more than 21 consecutive days (excluding vacation, **military, or family leave not related to the PIT holder's medical condition**~~[family, or military leave]~~) and the reason(s) why;

(3) if a physician has been arrested after the permit holder begins training in the program;

(4) if a physician poses a continuing threat to the public welfare as defined under Tex. Occ. Code §151.002(a)(2), as amended;

(5) if the program has taken final action that adversely affects the physician's status or privileges in a program for a period longer than 30 days;

(6) if the program has suspended the physician from the program;

(7) if the program has requested termination or terminated the physician from the program, requested or accepted withdrawal of the physician from the program, or requested or accepted resignation of the permit holder from the program and the action is final.

(c) A violation of §§164.051-164.053 or any other provision of the Medical Practice Act is grounds for disciplinary action by the Board.