

## TITLE 16. PHYSICIAN ASSISTANT BOARD

### NOTICE OF PROPOSED RULEMAKING CONCERNING APPLICATION, EXAM SCORES, ADDRESSES, & RECORDKEEPING

(Notice published September 9, 2022)

The PA Board (Board) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request, addressed to the individuals listed under “Contact Person” in this notice, for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by mail, facsimile (FAX), or e-mail to the addresses listed under “Contact Persons” in this Notice. The written comment period closes at **5:00 p.m. on Tuesday, October 25, 2022**. The Board will consider only comments received at the Board’s office by that time, or comments received at the hearing if the Board holds a hearing.

#### AUTHORITY AND REFERENCE

Business and Professions Code (BPC) section 3510 authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific the provisions of Senate Bill 697 (Caballero, Chapter 707, Statutes of 2019), and the Board is seeking to amend sections 1399.506, 1399.507, and 1399.511 of Article 1 of Division 13.8 of Title 16 of the California Code of Regulations (CCR) and repeal Section 1399.546 of Article 4 of Division 13.8 of Title 16 of the California Code of Regulations.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SB 697 became effective on January 1, 2020 and made numerous changes to the Physician Assistant Practice Act (Act), which provides for licensure and regulation of physician assistants (PAs) by the Physician Assistant Board. Generally, SB 697 revised the way PAs are supervised by physicians, allowing multiple physicians and surgeons to supervise a PA; generally allowed the supervising physicians and surgeons to determine the appropriate level of supervision for PA practice, renamed the supervision agreement from a “delegation of services” agreement to a “practice agreement;” and eliminated the statutory requirement of medical records review. This rulemaking updates the Board’s regulations by setting out what information is required in an initial application, and aligns the Board’s regulations with SB 697 by removing the Board’s

obligation to establish a passing score on the written examination administered by the National Commission on Certification of Physician Assistants, by clarifying applicants' obligation to provide a mailing address that will be released by the Board to the public, posted on the website, and used by the Board for correspondence and service of documents on the applicant, and by repealing 16 CCR 1399.546, which imposed requirements better determined within a practice agreement between a PA and the supervising physician and surgeon.

**Anticipated Benefits of the Proposed Regulation:**

The proposed amendments bring these four regulation sections up-to-date and into compliance with SB 697. This is accomplished by adding a new provision to existing 16 CCR 1399.506 subdivision (a) requiring applicants to submit two sets of fingerprint cards or Live Scan inquiry and permitting the Board to conduct a criminal background check, and listing all information requested on the application of licensure. The amendments change the title of 16 CCR 1399.506 to "Application for Licensure."

The proposed amendments amend 16 CCR 1399.507 to comply with recently amended BPC section 3517, such that the Board is no longer required to establish a passing score for the examination administered by the National Commission on Certification of Physician Assistants.

The proposed amendments change the title of 16 CCR 1399.511 to "Address of Record." The proposed amendments add that a mailing address must be provided to the Board and will be posted on the Board's public website and used for official correspondence, notices, and orders.

The proposed amendments repeal 16 CCR 1399.546 as unnecessary, as it places procedures in regulation that are better addressed by the terms agreed upon by the PA and the supervising physician and surgeon in the practice agreement.

**Evaluation of Inconsistency/Incompatibility with Existing State Regulations:**

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

**FISCAL IMPACT ESTIMATES**

The proposed regulations do not result in a fiscal impact to the state because the amendments align the Board's regulations with current law and/or with existing practice.

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency.

**The Board has made the following initial determinations:**

**Mandate on local agencies and school districts:** None.

**Cost or savings to any state agency:** None. The regulations do not result in a fiscal impact to the state. The amendments align the Board's regulations with current law and existing practice.

**Cost to any local agency or school district for which Government Code sections 17500 through 17630 requires reimbursement:** None.

**Other nondiscretionary cost or savings imposed on local agencies:** None.

**Cost or savings in federal funding to the state:** None. There are no costs or savings in federal funding to the state.

**Cost impacts on a representative private person or business:** The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Significant effect on housing costs:** None.

**Business Impact:**

The Board has determined that the proposed regulation will not have any significant statewide adverse economic impact directly affecting businesses, including the ability to compete.

**Effect on Small Business:**

The Board has determined that the proposed regulation would not affect small businesses because the proposal only clarifies the requirements of SB 697 that applied to applications for licensure, that the Board is no longer to establish the passing score for the licensure examination, clarifies the requirement to provide the Board with an address of record, and clarifies some recordkeeping requirements revised by SB 697.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This regulatory proposal will have the following effects:

It will not create or eliminate jobs within the state of California because the proposal only lists the information required on initial applications for licensure, removes language about the Board establishing a passing score for the licensure examination, clarifies the requirement to provide the Board with an address of record, and eliminates recordkeeping requirements that conflict with statute since the passage of SB 697, all changes needed to align the Board's regulations with prevailing law.

It will not create new businesses or eliminate existing businesses within the state of California because the proposal only lists the information required on initial applications for licensure, removes language about the Board establishing a passing score for the

licensure examination, clarifies the requirement to provide the Board with an address of record, and eliminates recordkeeping requirements that conflict with statute since the passage of SB 697, all changes needed to align the Board's regulations with prevailing law.

It will not affect the expansion of businesses currently doing business within the state of California because the proposal only lists the information required on initial applications for licensure, removes language about the Board establishing a passing score for the licensure examination, clarifies the requirement to provide the Board with an address of record, and eliminates recordkeeping requirements that conflict with statute since the passage of SB 697, all changes needed to align the Board's regulations with prevailing law.

The Board's proposed regulations will benefit the health and welfare of California residents by aligning the Board's regulations with the changes to statute resulting from the passage of SB 697. This regulatory proposal will not affect worker safety or the state's environment because it does not address issues involved in worker safety and does not involve environmental issues.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at any scheduled hearing or during the written comment period.

## CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Name:	Jasmine Dhillon
Address:	2005 Evergreen Street, Suite 2250 Sacramento, CA 95815-3893
Telephone No.:	(279) 666-2838
Fax No.:	(916) 263-2671
E-Mail Address:	<a href="mailto:jasmine.dhillon@dca.ca.gov">jasmine.dhillon@dca.ca.gov</a>

The backup contact person is:

Name: Kristy Voong  
Address: 2005 Evergreen Street, Suite 2250  
Sacramento, CA 95815-3893  
Telephone No.: (916) 561-8787  
Fax No.: (916) 263-2671  
E-Mail Address: [kristy.voong@dca.ca.gov](mailto:kristy.voong@dca.ca.gov)

## AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and other information which the rulemaking is based, including the Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's August 7, 2020 meeting, Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's November 9, 2020 meeting, Agenda, relevant Meeting Materials, and Minutes of the PA Board's February 8, 2021 meeting, and Agenda, relevant Meeting Materials, and Minutes of the PA Board's November 8, 2021 meeting.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for public comment on the modifications for at least 15 days. Please send requests for copies of any modified regulations to the attention of the Contact Person designated above at the address indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which the modified text is made available.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Contact Person at the above address.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at: <https://pab.ca.gov/lawsregs/regulations.shtml>.