

PHYSICIAN ASSISTANT BOARD
INITIAL STATEMENT OF REASONS

Hearing Date: August 10, 2018

Subject Matter of Proposed Regulations: Renewal of License

Section Affected: Section 1399.514 of Title 16 of the California Code of Regulations

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

Business and Professions Code section 490 permits the Physician Assistant Board (Board) to discipline a license if the licensee has been convicted of a crime and the crime is substantially related to the qualifications functions, or duties of a physician assistant. Existing regulations at Section 1399.514 of Title 16 of the California Code of Regulations (Section 1399.514) require physician assistant licensees to disclose whether, since their last renewal application, they have been convicted of violating any law, except traffic infractions with fines under \$300 that did not involve alcohol, dangerous drugs or controlled substances. Upon review of Section 1399.514, the Board determined that subdivision (a) of this section should be amended to increase the threshold fine amount for reporting convictions as a condition of license renewal. The purpose of this amendment is to increase the threshold fine amount for reporting an infraction from \$300 to \$500 because the current \$300 minimum reporting requirement results in disclosure of minor traffic violations that are typically not substantially related to the qualifications, functions or duties of a physician assistant.

2. Anticipated benefits from this regulatory action:

This regulatory proposal will allow licensees to not have to disclose minor infractions unrelated to the practice of medicine, such as moving traffic violations that do not include drugs or alcohol. Licensees could save minor costs currently associated with reporting infractions if this regulatory proposal is adopted, such as the cost to obtain certified copies of court documents and postage. These costs may be incurred by licensees after the reporting of a criminal conviction since these documents may be requested as part of the Board's inquiry and investigation following disclosure of the conviction to the Board. The Board would continue to receive disclosures of those convictions that may be substantially related to the practice of physician assistants. Consumers would continue to be protected from physician assistants who have convictions that relate to the practice of medicine since licensees must report any conviction, including a verdict of guilty, a guilty plea or no contest, of a felony or misdemeanor to the Board within thirty (30) days of the occurrence pursuant to section 1399.521.5 of Title 16 of the California Code of Regulations (Section 1399.521.5).

Factual Basis/Rationale

Amend Section 1399.514

Factual basis for the determination that each proposed amendment to Section 1399.514 is reasonably necessary to address the problem for which it is proposed:

Business and Professions Code section 3510 (Section 3510) authorizes the Board to adopt, amend, and repeal regulations that may be necessary to enable it to carry out the provisions of its practice act. Business and Professions Code sections 490 and 3527 authorize the Board to discipline a license if the licensee is convicted of a crime that is substantially related to the qualifications, functions, or duties of a physician assistant. Section 1399.525 of Title 16 of the California Code of Regulations (Section 1399.525) indicates that a conviction for driving under the influence of drugs or alcohol is considered a substantially related crime.

At the Board's April 18, 2016 meeting, Board members discussed raising the threshold of reporting infractions to convictions with fines of \$500 or more to avoid receiving disclosures for convictions, such as minor traffic violations like running a red light, which would not be considered substantially related to the qualifications, functions, or duties of a physician assistant. Staff reported that most moving violations incur a fine over the current threshold of \$300, but below \$500. In order to help reduce the number of disclosures to the Board for minor traffic violations, which typically would not be considered substantially related crimes, but still capture more serious traffic violations, such as violations related to driving under the influence (DUIs) that can be pled down from DUIs to "wet reckless" driving traffic tickets, the Board proposed to increase the threshold criminal fine reporting amount on renewal to \$500.

At the Board's October 24, 2016 meeting, proposed text to amend Section 1399.514 was reviewed, discussed and approved by the Board. The proposed text amended Section 1399.514 to increase the \$300 conviction reporting threshold to \$500.

Underlying Data

Technical, theoretical or empirical studies, reports, or documents relied upon (if any):

- (1) Minutes of the Physician Assistant Board's April 18, 2016 meeting.
- (2) Minutes of the Physician Assistant Board's October 24, 2016 meeting.
- (3) DCA Health Care Related Board Table – Agenda Item 10c from the Board's April 18, 2016 Board meeting.
- (4) Traffic Infraction Fixed Penalty Schedule

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts:

There is no business impact because this proposed regulation would reduce or eliminate the infractions licensees would be required to disclose as a condition of license renewal. Criminal infractions not involving drugs or alcohol that resulted in a fine of at least \$300 but less than \$500 would no longer have to be reported. The Board estimates that approximately 10% of convictions reported by licensees involve traffic infractions, which was approximately ten (10) licensees. Licensees affected by this proposal could save minor costs currently associated with reporting infractions if this regulatory proposal is adopted, such as the cost to obtain certified copies of court documents and postage. These costs may be incurred by licensees after the reporting of a criminal conviction since these documents may be requested as part of the Board's inquiry and investigation following disclosure of the conviction to the Board.

Economic Impact Assessment

This regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California because this proposed amendment will only change a minor reporting requirement on a renewal form for a fraction of licensees who would report convictions on renewals. Consequently, it will not impact the creation or elimination of jobs.

It will not create new business or eliminate existing businesses within the State of California because the proposal will only change a minor reporting requirement on a renewal form for a fraction of licensees who would report convictions on renewals. Consequently, it will not involve the creation of new business or elimination of existing businesses.

It will not affect the expansion of businesses currently doing business within the State of California because the proposal only changes a minor reporting requirement on a renewal form for a fraction of licensees who would report convictions on renewals. Consequently, it will not involve the expansion of businesses currently doing business within the state.

This regulatory proposal will benefit the health and welfare of California residents because the Board would continue to receive disclosures of convictions reported by the licensees that may be substantially related to the practice of physician assistants. Consumers would continue to be protected from physician assistants who have convictions that relate to the practice of medicine since licensees must report any conviction, including a verdict of guilty, a guilty plea or no contest, of a felony or misdemeanor to the Board within thirty (30) days of the occurrence pursuant to section 1399.521.5 of Title 16 of the California Code of Regulations (Section 1399.521.5).

This regulatory proposal will not affect worker safety because the proposal does not involve worker safety. The proposal only changes a minor reporting requirement to the Board on renewals.

This regulatory proposal will not affect the state's environment because it does not involve environmental issues.

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.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not amend the regulation: This alternative was rejected because Section 1399.514 has a current threshold reporting of infractions at \$300 which was too low and resulted in the Board receiving disclosures for convictions, such as minor traffic violations, that would not be considered substantially related crimes.
2. Amend the regulation: The Board determined that subdivision (a) of this section should be amended to increase the threshold amount for reporting convictions as a condition of renewal. The Board determined that the current \$300 threshold is too low and was resulting in the Board receiving disclosures for convictions, such as minor traffic violations, that would not be considered substantially related crimes.