

TITLE 16. PHYSICIAN ASSISTANT BOARD

(Notice published June 15, 2018)

NOTICE OF PROPOSED RULEMAKING

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

PUBLIC HEARING

The Board will hold a public hearing starting at **9:00 a.m.** on **August 10, 2018**, in the **Spinnaker Room of the Sheraton San Diego Hotel and Marina** located at 1380 Harbor Island Drive, San Diego, California 92010. The Spinnaker Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 263-2671 or by e-mail to anita.winslow@mbc.ca.gov. The written comment period closes at **5:00 p.m. on August 10, 2018**. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Anita Winslow, Regulatory Coordinator
Physician Assistant Board
2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893

AUTHORITY AND REFERENCE

Business and Professions Code section 3510 authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific sections 490 and 3527 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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.

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.

Anticipated Benefits of the Proposed Regulation:

This regulatory proposal will allow licensees to not have to disclose minor infractions unrelated to the practice of medicine. 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).

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

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

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:

This regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. 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.

Effect on Small Business:

The Physician Assistant Board has determined that the proposed regulation would not affect small businesses because it would only impact the infractions licensees would be required to disclose as a condition of license renewal.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

The Physician Assistant Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in 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.

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.

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 action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, 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 the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Name:	Anita Winslow
Address:	2005 Evergreen Street, Suite 1100 Sacramento, CA 95815-3893
Telephone No.:	(916) 561-8782
Fax No.:	(916) 263-2671
E-Mail Address:	anita.winslow@mbc.ca.gov

The backup contact person is:

Name:	Lynn Forsyth
Address:	2005 Evergreen Street, Suite 1100 Sacramento, CA 95815-3893
Telephone No.:	(916) 561-8785
Fax No.:	(916) 263-2671
E-Mail Address:	lynn.forsyth@mbc.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, the Physician Assistant Board's April 18, 2016 meeting minutes, the Physician Assistant Board's October 24, 2016 meeting minutes, DCA Health Care Related Board Table – Agenda Item 10c from the Board's April 18, 2016 Board meeting, and Traffic Infraction Fixed Penalty Schedule.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and 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 at least 15 days before the Board adopts the regulation as revised. Please send requests for copies of any modified regulations to the attention of Anita Winslow at the address indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Winslow 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: www.pac.ca.gov .