

TITLE 16. PHYSICIAN ASSISTANT BOARD

(Notice published May 27, 2016)

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 10:00 a.m. on July 11, 2016, in the Hearing Room located at 2005 Evergreen Street, Sacramento, California 95815. The Hearing 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 closed at **5:00 p.m. on July 11, 2016**. 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 2018 and 3510 authorizes the Board to adopt this proposed regulation. The proposed regulation implement, interpret, and make specific section 3502 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Profession Code section 3502 authorizes the medical services performable by physician assistants, the supervision requirements of physician assistants, and supervision recordkeeping requirements. Existing law at Title 16, California Code of Regulations (CCR) section 1399.546 requires the physician assistant to enter the name of their supervising physician in the patient's medical record every time they provide care for that patient. Section 1399.546 was adopted prior to the now

wide-use of electronic medical records (EMR) and the automated or computerized entry of required medical information in the medical records of patients.

SB 337 Chapter 536, Statutes of 2015 (Pavley), amended Business and Profession Code section 3502. Among the amendments was the requirement that the medical record for each episode of care for a patient identify the physician and surgeon who is responsible for the supervision of the physician assistant. Business and Professions Code section 3502(f) also was amended to state: "Compliance by a physician assistant and supervising physician and surgeon with this section shall be deemed compliance with Section 1399.546 of Title 16 of the California Code of Regulations."

Upon review of its interpretation of Section 1399.546 and the recent amendments to SB 337, the Board determined that Section 1399.546 is not consistent with the intent of Business and Professions Code section 3502 as amended by SB 337. Specifically, the Board determined that SB 337 was intended to alleviate the need for the physician assistant to manually enter the supervising physician's name in the patient's EMR for each episode of care. However, the current regulation still may be interpreted to require that entry.

This proposal would strike the current requirement that the physician assistant manually "enter" the name of his or her supervising physician in the patient's medical record for each episode of care, and instead require that the physician assistant only "record" the supervising physician in the patient's medical record for each episode of care. This would permit use of EMRs or other methods of recordation to meet this recordkeeping requirement.

The proposal would also add a paragraph to Section 1399.546 that explicitly permits the use of EMRs to meet this requirement provided that the electronic medical record software used by the physician assistant is designed to, and actually does, enter the name of the supervising physician assistant for each episode of care into the patient's medical record. Such automatic entry would be deemed sufficient compliance with this recordkeeping requirement.

Anticipated Benefits of the Proposed Regulation:

The purpose is to eliminate duplicative record keeping, thus ensuring that licensees would not be subjected to burdensome regulations in complying with this reporting requirement while still meeting the objective of documenting who is responsible for providing care in the patient's medical record.

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.

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small business, the Board concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

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 or evidence/documents/testimony:

The Physician Assistant Board has approximately 10,732 licensees for FY 2015-2016. Physician assistants work in a variety of practice settings and specialties under the supervision of licensed physicians. The Board does not have data on the number of physicians who supervise physician assistants or the number of businesses that employ them.

Existing law requires that physician assistants manually enter the name of their supervising physician in the patient's record for each episode of care. The proposed amendment would clarify and specifically permit the physician assistant to use computer software programs to automatically enter the information, thus saving costs and time and eliminating duplicative functions within the health care delivery system. This proposal would therefore result in cost savings for any businesses that employ physician assistants or no costs for those businesses already electronically generating the information required by this regulation. The proposal's purpose is to ensure there is no duplicative record keeping while still enabling the patient to reference who their

supervising physician is.

Effect on Small Business:

The Physician Assistant Board has determined that the proposed regulations would not affect small businesses because it only affects how the physician assistant documents their supervising physician.

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.

Benefits of the Proposed Action: The Physician Assistant Board has determined that this regulatory proposal will benefit the health and welfare of California residents by eliminating the inconsistency between Business and Professions Code section 3502 and CCR section 1399.546, thus enhancing consumer protection.

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
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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, and the initial statement of reasons.

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 .