

## TITLE 16. PHYSICIAN ASSISTANT BOARD

(Notice published April 9, 2021)

### NOTICE OF PROPOSED RULEMAKING CONCERNING IMPLICIT BIAS REQUIREMENT IN CONTINUING EDUCATION

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 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, May 25, 2021**. The Board will consider only comments received at the hearing (if one occurs) or at the Board's office by that time.

#### AUTHORITY AND REFERENCE

Business and Professions Code sections 3510 and 3524.5 authorize the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific section 3524.5 of the Business and Professions Code (BPC), and the Board is considering amending section 1399.616 of article 8 of division 13.8 of title 16 of the California Code of Regulations (CCR)<sup>1</sup>.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board licenses physician assistants, who are health care practitioners that provide medical services under the supervision of a licensed physician and surgeon (BPC section 3502). Existing law (BPC section 3524.5) presently authorizes the Board to require a licensee to complete not more than 50 hours of continuing education (CE) every two years as a condition of license renewal. Consistent with that authority, Assembly Bill (AB) 241 (Kamlager-Dove, Chapter 417, Statutes of 2019) requires the Board to adopt regulations to require, beginning January 1, 2022, all CE courses for physician assistants that contain a direct patient care component include curriculum that includes instruction in the understanding of implicit bias and the promotion of bias-

---

<sup>1</sup> All references are to 16 CCR unless otherwise noted.

reducing strategies. It also requires CE providers to ensure compliance beginning January 1, 2023 and requires the Board to audit CE providers at least once every five years to ensure adherence to regulatory requirements, and to withhold or rescind approval from any provider that is in violation. Since the Board has a “deemed approved” program, which means that the programs are deemed approved if they are offered by one of the sponsors and are designated as a Category 1 (Pre-approved) provider as indicated in CCR 1399.616, the Board will develop a CE provider audit at a later date.

*Anticipated Benefits of the Proposed Regulation:*

The proposed text brings the Board’s regulations into compliance with AB 241 by adding a new provision to existing subsection (a) requiring programs to meet the new implicit bias curriculum requirements in AB 241 to be considered approved by the Board. AB 241 requires the Board to adopt regulations for compliance with the bill by January 1, 2022. Therefore, this new subdivision requires all approved CE courses for physician assistants that contain a direct patient care component to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment. The bill would require, by January 1, 2023, that CE providers that offer these CE courses ensure compliance with these provisions.

The proposed text would also add to CCR 1399.616 a new subdivision (b) that states: “Beginning January 1, 2022, any continuing medical education course that includes a direct patient care component shall include curriculum that includes an understanding of implicit bias pursuant to 3524.5 of the Code.”

Instruction in understanding implicit bias will increase awareness among physician assistants about issues that can unconsciously influence the care they provide and will help them adjust their practices to better serve their communities. This measure offers a potentially promising step toward addressing costly inequities in healthcare treatment, reducing health disparities among California’s diverse population, and aiding in creating a professional environment that provides equal treatment to everyone.

*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:*

The Board is unaware of any significant statewide adverse economic impact directly affecting businesses caused by this regulatory proposal, including the ability to compete. The proposed regulations are not anticipated to result in an economic impact to the state.

The Board accepts CME certificates from five agencies as well as certificates that are recognized by one of those agencies. These agencies would incur a cost to change their syllabuses and instruction for courses that include a direct patient care component that do not presently include instruction on implicit bias to conform to current law. The Board does not have any data on how many classes this would affect or the cost these agencies would incur.

*Fiscal Impact:*

The Board does not anticipate any increase in workload or costs to the state as a result of amending 16 CCR section 1399.616 as described in this proposal.

*Effect on Small Business:*

The Board has determined that the proposed regulation would not affect small businesses because the proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

This regulatory proposal will not create new businesses, eliminate existing businesses, or create or eliminate jobs, and will not affect the expansion of businesses currently doing business within the State of California because the proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

This regulatory proposal will benefit the health and welfare of California residents because instruction in understanding implicit bias will result in improved decision-making by better educated physician assistants, which will in turn benefit the public by providing better health care to minorities and stereotyped groups. By adopting this regulation, the Board seeks to support physician assistants who serve an increasingly more diverse public, and to uphold the Board's highest priority, which is to protect an increasingly more diverse public.

This regulatory proposal may have a positive impact on worker safety if reducing implicit biases towards minority and stereotyped patients and providing strategies to address unintended biases also reduces biased decision-making in the workplace, contributing to better worker safety and health.

This regulatory proposal will not affect the State's environment because it does not involve environmental issues. The proposal only clarifies the statutorily mandated requirement that to obtain Board approval, by January 1, 2022, all CME programs that have a direct patient care component must have curriculum that includes instruction on implicit bias pursuant to BPC section 3524.5.

## 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: jasmine.dhillon@mbc.ca.gov

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@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, and other information which the rulemaking is based, including the Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's April 29, 2019 meeting, Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's August 9, 2019 meeting, Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's November 4, 2019 meeting, and Agenda, relevant Meeting Materials, and Minutes of the Physician Assistant Board's January 13, 2020 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://www.pab.ca.gov/about\\_us/lawsregs/regulations.shtml](https://www.pab.ca.gov/about_us/lawsregs/regulations.shtml).