

**State of California
Office of Administrative Law**

In re:
Physician Assistant Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

**Amend sections: 1399.502, 1399.540,
1399.541, 1399.545**

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2024-0606-03

OAL Matter Type: Regular (S)

This rulemaking action by the Physician Assistant Board updates requirements related to practice agreements.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2024.

Date: July 19, 2024



Lindsey S. McNeill
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Rozana Khan, Executive Officer
Copy: Jasmine Dhillon

REGULAR

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2023-0718-04	REGULATORY ACTION NUMBER 2024-0606-03S	EMERGENCY NUMBER
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OFFICE OF ADMINISTRATIVE LAW

Electronic Submission

RECEIVED DATE PUBLICATION DATE
07/18/2023 07/28/2023

OFFICE OF ADMIN. LAW
2024 JUN 6 PM 2:49

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 19 2024

2:26 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY Physician Assistant Board	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2023 30-Z	PUBLICATION DATE 7/28/23	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SB 697 Implementation	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND 1399.502, 1399.540, 1399.541, 1399.545
REPEAL
TITLE(S) 16

3. TYPE OF FILING
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Other (Specify) _____

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
12/05/2023 to 12/20/2023 and 03/07/2024 to 03/22/2024

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input checked="" type="checkbox"/> Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affairs

7. CONTACT PERSON Jasmine Dhillon	TELEPHONE NUMBER (279) 666-2838	FAX NUMBER (Optional) (916) 263-2671	E-MAIL ADDRESS (Optional) jasmine.dhillon@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6/4/2024
TYPED NAME AND TITLE OF SIGNATORY Rozana Khan, Executive Officer, Physician Assistant Board	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 19 2024

Office of Administrative Law

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 13.8. Physician Assistant Board

ORDER OF ADOPTION

Amend Section 1399.502 of Article 1 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

§1399.502. Definitions.

For the purposes of the regulations contained in this chapter, the terms

- (a) "Board" means Physician Assistant Board.
- (b) "Code" means the Business and Professions Code.
- ~~(c) "Physician assistant" means a person who is licensed by the board as a physician assistant.~~
- ~~(d) "Trainee" means a person enrolled and actively participating in an approved program of instruction for physician assistants.~~
- (ce) "Approved program" means a program for the education and training of physician assistants which has been approved by the bBoard.
- ~~(f) "Supervising physician" and "physician supervisor" mean a physician licensed by the Medical Board of California or a physician licensed by the Osteopathic Medical Board of California.~~
- (dg) "Approved controlled substance education course" means an educational course approved by the bBoard pursuant to section 1399.610.
- (e) "Practice agreement" means the definition set forth in Section 3501(k) of the Code and it must contain the elements described in Section 3502.3(a) of the Code and section 1399.540(a).
- (f) "Supervision" means the definition set forth in Section 3501(f) of the Code.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3510, Business and Professions Code.

Amend Section 1399.540 of Article 4 of Division 13.8 of Title 16 of the California Code of Regulations

§1399.540. Limitation on Medical Services.

- ~~(a) A physician assistant may only provide those medical services which he or she is competent to perform and which are consistent with the physician assistant's education, training, and experience, and which are delegated in writing by a supervising physician who is responsible for the patients cared for by that physician assistant.~~
- (ba) The writing which delegates the medical services shall be known as a delegation of services agreement. In addition to meeting the requirements of Section 3502.3 of the

~~Code. A delegation of services practice agreement shall be signed and dated by the physician assistant and one or more authorized physicians and surgeons, each supervising physician. A delegation of services agreement may be signed by more than one supervising physician only if the same medical services have been delegated by each supervising physician. A physician assistant may provide medical services pursuant to more than one delegation of services agreement.~~

~~(eb) The Board or Medical Board of California or their its representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures, or management he or she is they are performing.~~

~~(dc) A physician assistant shall consult with a physician regarding any task, procedure, or diagnostic problem which the physician assistant determines exceeds his or her level of competence or shall refer such cases to a physician. If any task, procedure, or diagnostic problem exceeds the physician assistant's level of competence, they shall either consult a supervising physician and surgeon, or refer the patient to a physician and surgeon or licensed healthcare provider competent to render the services needed for the task, procedure, or diagnosis.~~

NOTE: Authority cited: Sections 2018, 3502 and 3510, Business and Professions Code. Reference: Sections 3502, 3502.3, 3509, 3516 and 3527, Business and Professions Code.

Amend Section 1399.541 of Article 4 of Division 13.8 of Title 16 of the California Code of Regulations

§1399.541. Medical Services Performable.

~~Because physician assistant practice is directed by a supervising physician, and a physician assistant acts as an agent for that physician, the orders given and tasks performed by a physician assistant shall be considered the same as if they had been given and performed by the supervising physician. Unless otherwise specified in these regulations or in the delegation or protocols, these orders may be initiated without the prior patient specific order of the supervising physician.~~

In any setting, including for example, any licensed health facility, out-patient settings, patients' residences, residential facilities, and hospices, as applicable, a physician assistant may, pursuant to a delegation practice agreement and protocols where present:

(a) Take a patient history; perform a physical examination and make an assessment and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans for those services described in Section 1399.541(b) through Section 1399.541(j) inclusive; and record and present pertinent data in a manner meaningful to the physician.

(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy, occupational therapy, respiratory therapy, and nursing services.

(c) Order, transmit an order for, perform, or assist in the performance of laboratory procedures, screening procedures, and therapeutic procedures.

(d) Recognize and evaluate situations which call for immediate attention of a physician and institute, when necessary, treatment procedures essential for the life of the patient.

(e) Instruct and counsel patients regarding matters pertaining to their physical and mental health. Counseling may include topics such as medications, diets, social habits, family planning, normal growth and development, aging, and understanding of and long-term management of their diseases.

(f) Initiate arrangements for admissions, complete forms and charts pertinent to the patient's medical record, and provide services to patients requiring continuing care, including patients at home.

(g) Initiate and facilitate the referral of patients to the appropriate health facilities, agencies, and resources of the community.

(h) Administer or provide medication to a patient, or issue or transmit drug orders orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section 3502.1 of the Code.

~~(i)(1) Perform surgical procedures as authorized by the practice agreement and in accordance with Section 3502 of the Code. Perform surgical procedures without the personal presence of the supervising physician which are customarily performed under local anesthesia. Prior to delegating any such surgical procedures, the supervising physician shall review documentation which indicates that the physician assistant is trained to perform the surgical procedures. All other surgical procedures requiring other forms of anesthesia may be performed by a physician assistant only in the personal presence of a supervising physician.~~

~~(2) A physician assistant may also act as first or second assistant in surgery under the supervision of a supervising physician as authorized by the practice agreement and in accordance with Section 3502 of the Code. The physician assistant may so act without the personal presence of the supervising physician if the supervising physician is immediately available to the physician assistant. "Immediately available" means the physician is physically accessible and able to return to the patient, without any delay, upon the request of the physician assistant to address any situation requiring the supervising physician's services.~~

~~(j) Perform any other services authorized by the practice agreement for which the physician assistant is qualified in accordance with the requirements of Section 3502 of the Code.~~

NOTE: Authority cited: Sections 2048, 3502 and 3510, Business and Professions Code. Reference: Sections 2058, 3501, 3502, and 3502.1, 3502.3 and 3509, Business and Professions Code.

Amend Section 1399.545 of Article 4 of Division 13.8 of Title 16 of the California Code of Regulations

§1399.545. Supervision Required.

(a) A supervising physician shall be available ~~in person~~ by telephone, or by other electronic communication at all times when the physician assistant is carin~~g~~providing medical services for patients.

~~(b) A supervising physician shall delegate to a physician assistant only those tasks and procedures consistent with the supervising physician's specialty or usual and customary practice and with the patient's health and condition.~~

~~(c) A supervising physician shall observe or review evidence of the physician assistant's performance of all tasks and procedures to be delegated to the physician assistant until assured of competency.~~

~~(d) The physician assistant and the supervising physician shall establish in writing transport and back-up procedures for the immediate care of patients who are in need of emergency care beyond the physician assistant's scope of practice for such times when a supervising physician is not on the premises.~~

~~(e) A physician assistant and his or her supervising physician shall establish in writing guidelines for the adequate supervision of the physician assistant which shall include one or more of the following mechanisms:~~

~~(1) Examination of the patient by a supervising physician the same day as care is given by the physician assistant;~~

~~(2) Countersignature and dating of all medical records written by the physician assistant within thirty (30) days that the care was given by the physician assistant;~~

~~(3) The supervising physician may adopt protocols to govern the performance of a physician assistant for some or all tasks. The minimum content for a protocol governing diagnosis and management as referred to in this section shall include the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and education to be given the patient. For protocols governing procedures, the protocol shall state the information to be given the patient, the nature of the consent to be obtained from the patient, the preparation and technique of the procedure, and the follow-up care. Protocols shall be developed by the physician, adopted from, or referenced to, texts or other sources. Protocols shall be signed and dated by the supervising physician and the physician assistant. The supervising physician shall review, countersign, and date a minimum of 5% sample of medical records of patients treated by the physician assistant functioning under these protocols within thirty (30) days. The physician shall select for review those cases which by diagnosis, problem, treatment or procedure represent, in his or her judgment, the most significant risk to the patient;~~

~~(4) Other mechanisms approved in advance by the board.~~

~~(fb) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function autonomously without supervision. The supervising physician shall be responsible for all medical services provided by a physician assistant under his or her their supervision.~~

NOTE: Authority cited: Sections ~~2018, 3502 and 3510~~, Business and Professions Code.
Reference: Sections 3501, 3502, 3502.3 and 3516, Business and Professions Code.