

**State of California
Office of Administrative Law**

In re:
Medical Board of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:
Amend sections: 1358
Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

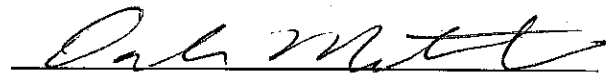
OAL Matter Number: 2017-0907-01

OAL Matter Type: Regular (S)

This rulemaking action removes obsolete language from section 1358 of Title 16 of the California Code of Regulations and specifies that probationers must cooperate with Medical Board staff by complying with each term and condition of the order placing them on probation and that any fees incurred as a result of any term or condition of probation shall be paid by the probationers.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2018.

Date: October 10, 2017



**Dale P. Mentink
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Kimberly Kirchmeyer
Copy: Michael Briscoe**

STD. 400 (REV. 01-2013)

OAL FILE NUMBER Z-2016 0830 06	NOTICE FILE NUMBER 2017-0907-015	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
RECEIVED DATE AUG 30 '16		PUBLICATION DATE SEP 09 '16	
Office of Administrative Law		2017 SEP -7 P 2:47 OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	

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

OCT 10 2017
1:38 P.M.

AGENCY WITH RULEMAKING AUTHORITY
 Medical Board of California

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Physicians on Probation		TITLE(S) 16	FIRST SECTION AFFECTED 1358	2. REQUESTED PUBLICATION DATE September 9, 2016
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Kerrie Webb	TELEPHONE NUMBER (916) 263-2389	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2016, 37-2	PUBLICATION DATE 9-9-2016

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Physicians on Probation	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) 16	ADOPT CCR Section 1358
TITLE(S) 16	AMEND CCR Section 1358
	REPEAL

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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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)

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	per agency request
<input checked="" type="checkbox"/> Other (Specify) DEAN R. GRAFIKO, Director, DEPT. OF Consumer Affairs 10/10/17			
7. CONTACT PERSON Michael Briscoe	TELEPHONE NUMBER (916) 274-5797	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Michael.Briscoe@MBC.CA.gov

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 <i>Kimberly Kirchmeyer</i>	DATE 9-6-17
TYPED NAME AND TITLE OF SIGNATORY Kimberly Kirchmeyer, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 10 2017

Office of Administrative Law

**MEDICAL BOARD OF CALIFORNIA
REQUIREMENTS FOR PHYSICIANS ON PROBATION**

ORDER OF ADOPTION

Amend Section 1358 in Article 3, of Chapter 2, Division 13, of Title 16 of the California Code of Regulations to read as follows:

§1358. Requirements for Physicians on Probation

Each physician and surgeon who has been placed on probation by the ~~division-Board~~ shall be subject to the ~~division's-Board's~~ Probation ~~Surveillance-Compliance-Program~~ and shall be required to fully cooperate with representatives of the ~~division-Board~~ and its ~~investigative personnel~~. Such cooperation shall include, but is not necessarily limited to, compliance with each term and condition in the order placing the physician and surgeon on probation, and submission to laboratory biological fluid testing for the purpose of determining the existence of alcohol, narcotics, other controlled substances and/or dangerous drugs in his or her system. Such biological fluid tests shall be made at the times and places required by the ~~division-Board~~ or its duly authorized representative. Any monetary fees incurred as a result of ~~such laboratory tests~~ a term or condition of probation, or biological fluid testing, shall be borne by the physician-probationer.

NOTE: Authority cited: Section 2018, Business and Professions Code.
Reference: Section(s) 2227, 2228, and 2229, Business and Professions Code.

DATED: April 17, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California