

MEDICAL BOARD REPORT

DATE REPORT ISSUED: January 3, 2018
ATTENTION: Members, Medical Board of California
SUBJECT: Proposed Changes to Physician Assistant Board Regulations
Title 16, California Code of Regulations (CCR), Section 1399.545,
Supervision Required for Physician Assistants
STAFF CONTACT: Lynn Forsyth, Executive Officer, Physician Assistant Board

RECOMMENDED ACTION:

After review and consideration of the attached proposed regulations for supervision required for physician assistants, make a motion to authorize staff to do the following:

- 1) Submit the proposed rulemaking package to the Department of Consumer Affairs (DCA) and the Business, Consumer Services, and Housing Agency (Agency);
- 2) Upon DCA and Agency approval, submit the rulemaking package to the Office of Administrative Law (OAL) to formally notice the proposed regulations and schedule a hearing on the rulemaking to amend Title 16, CCR, section 1399.545; and
- 3) Make non-substantive changes to the language as needed.

BACKGROUND AND ANALYSIS:

Business and Professions (B&P) Code sections 3502 and 3502.1 were amended with the implementation of Senate Bill 337 (Pavley, Chapter 536, Statutes of 2015). This bill required medical records to reflect the supervising physician for each episode of care; require a physician assistant who transmits an oral order to identify the supervising physician; recast medical record review provisions to require the supervising physician to utilize one or more mechanisms; and recast prescribing provisions to allow how a physician assistant documents Schedule II controlled substances. Due to the amendments to sections 3502 and 3502.1 of the B&P Code, changes must be made to 16 CCR, section 1399.545.

Please see Attachment 1 for the proposed amendments.

FISCAL/ECONOMIC IMPACT CONSIDERATIONS:

As this proposal is only clarifying the protocols for the supervising physician and the physician assistant and removing the requirement for chart review, which is specified in B&P Code sections 3502 and 3502.1, there is no fiscal or economic impact expected.

RECOMMENDATION:

The Physician Assistant Board and Medical Board of California (Board) staff recommend that the Board approve the proposed amendments to 16 CCR, section 1399.545, authorize staff to proceed through the rulemaking process, and notice the modified language for a 45-day comment period and

hearing upon DCA and Agency approval. Staff further recommends the Board authorize staff to make any non-substantive changes to the proposed language during the rulemaking process as needed.

PROPOSED CHANGES

Amend section 1399.545 of Article 1 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

1399.545. Supervision Required.

- (a) A supervising physician shall be available in person or by electronic communication at all times when the physician assistant is caring 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:
- (1) One of the supervision mechanisms authorized by Section 3502.1 of the Code if the physician assistant has been delegated authority to administer, provide or issue a drug order to a patient for Schedule II controlled substances, and
- (2) One or more of the following mechanisms:
- ~~(1A) Examination of the patient by a supervising physician the same day as care is given by the physician assistant;~~
- ~~(2B) 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;~~
- ~~(3C) Any mechanism authorized by Section 3502 of the Code; or, 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;~~
- (4D) Other mechanisms approved in advance and in writing by the board.
- (f) 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. The supervising physician

shall be responsible for all medical services provided by a physician assistant under his or her supervision.

Note: Authority cited: Sections 2018, 3502 and 3510, Business and Professions Code. Reference: Sections 3502, [3502.1](#), and 3516, Business and Professions Code.