STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
PHYSICIAN ASSISTANT COMMITTEE
2005 Evergreen Street, Suite 1100, Sacramento, CA 95815
Telephone: 916 561-8780 Fax: 916 263-2671 Website: www.pac.ca.gov

TO: Members
Medical Board of California

FROM: Elberta Portman, Executive Officer
Physician Assistant Committee

DATE: April 9, 2012

SUBJECT: Regulatory Proposal - Title 16, California Code of Regulations Section 1399.541 – Physician Assistants: Medical Services Performable – Personal Presence

The Physician Assistant Committee (PAC) is asking the Medical Board (Board) to amend a regulation that addresses the medical services that can be performed by a physician assistant (PA) and the personal presence of a physician in supervising the PA. The purpose of this proposed regulatory change is to update and clarify PA supervision requirements.

The PAC lacks authority to adopt, amend, or repeal regulations affecting the scope of practice of PAs and supervising physicians. The authority has been granted to the Board by statute.

The background information for the proposal, and the language approved by the PAC, is attached.

The PAC respectfully submits and presents this language for your consideration, and if approved, the PAC is requesting that a regulatory hearing be scheduled at the July, 2012 meeting.

On behalf of the PAC, I wish to thank you for taking this time to consider this important matter.

Attachment(s): Background
Proposed language

REGULATORY PROPOSAL TO AMEND
TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 1399.541

Background Information

In 2005, the Physician Assistant Committee (PAC) requested legal counsel to review and interpret Section 1399.541 of Title 16 of the California Code of Regulations. Specifically, the inquiry related to the term "personal presence", as it was used in subsection (i) of section 1399.541. Subsection (i) of Section 1399.541 relates to the opening and closing of surgical procedures upon a patient under general anesthesia.

The question raised was, "May a physician assistant perform these surgical procedures on a patient under general anesthesia without the personal presence of a supervising physician and surgeon?"

The opinion stated that "No, a physician assistant may not perform opening and closing surgical procedures on a patient under general anesthesia without the personal presence of a supervising physician and surgeon".

In early 2011, this question was raised again by physician assistant licensees and subsequently discussed at the PAC's meeting. The PAC discussed the matter and determined that the best way to respond to this issue was to form the Physician Assistant Personal Presence Subcommittee. The Subcommittee was asked to review the regulation and current PA practice to determine if amendments were appropriate.

The Subcommittee reviewed the current regulation and determined that amendments would be appropriate to update the language so it conforms to current medical standards with regard to this practice.

Legal counsel drafted amendments to Section 1399.541 and the PAC approved the final draft at its February 6, 2012 meeting. The proposed changes include allowing PAs to perform surgical procedures under local anesthesia and general anesthesia.

The PAC lacks authority to adopt, amend or repeal regulations affecting the scope of practice of physician assistants and supervising physicians. This authority has been statutorily granted to the Medical Board of California.

Action Requested:

The PAC requests that a regulatory hearing be scheduled at the July, 2012 meeting of the Medical Board.

Physician Assistant Committee

Draft Proposed Amendments

"Physician Assistants: Medical Services Performable – Personal Presence"

LEGEND: Single Underline represents language being added. ~~Strikeout~~ represents language being deleted. This modified language was approved by the Physician Assistant Committee at the February 6, 2012 meeting.

Section 1399.541 is amended to read:

1399.541. 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 of services of agreement executed pursuant to subdivision (b) of section 1399.540 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(i) 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 follows:

(A) ~~l~~Local ~~a~~Anesthesia. A physician assistant may perform those procedures customarily performed under local anesthesia without the physical ~~personal~~ presence of the supervising physician. ~~which are customarily performed under local anesthesia.~~

(B) General Anesthesia. A physician assistant may perform surgical procedures, including the closure of surgical wounds to all layers of the skin and fascia, upon a patient sedated to a level of general anesthesia without the physical presence of a supervising physician and surgeon in the operating room or suite provided that the supervising physician and surgeon is immediately available and the licensed health care practitioner administering the anesthetic(s) is physically present in the operating room. For the purposes of this section, "immediately available" means that the supervising physician and surgeon remains located on the same floor and within the same operating complex in the event assistance is requested.

Prior to delegating any such surgical procedures, the supervising physician shall review documentation which indicates that the physician assistant is trained and competent 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 an approved supervising physician.~~

(2) A physician assistant may also act as first or second assistant in surgery under the supervision of an approved supervising physician.

NOTE: Authority cited: Sections 2018, 3502 and 3510, Business and Professions Code. Reference: Sections 2058 and 3502, Business and Professions Code.