

**MEDICAL BOARD OF CALIFORNIA
SPECIFIC LANGUAGE OF PROPOSED REGULATIONS**

Modification to Continuing Medical Education Audit

Amend Section 1338, Title 16, California Code of Regulations to read as follows:

§ 1338. Audit and Sanctions for Noncompliance.

(a) The Board division shall audit ~~once~~ during each year a random sample of physicians who have reported compliance with the continuing education requirement. No physician shall be subject to audit more than once every four (4) years. Those physicians selected for audit shall be required to document their compliance with the continuing education requirements of this article on a form provided by the Board division.

(b) Any physician who is found not to have completed the required number of hours of approved continuing education will be required to make up any deficiency during the next biennial renewal period. Such physician shall document to the Board division the completion of any deficient hours identified by audit. Any physician who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to practice medicine until such time as the deficient hours of continuing education are documented to the Board division.

(c) It shall constitute unprofessional conduct for any physician to misrepresent his or her compliance with the provisions of this article.

(d) Any physician selected for audit who has been certified as complying with the continuing education requirements of this article by those organizations listed in Section 1337, subsections (a)(1) and (a)(2), will not be required to submit documentation or records of continuing education coursework received, but the Board division may obtain such records directly from the certifying organizations.

(e) The Board division requires that each physician retain records for a minimum of four years of all continuing education programs attended which indicate the title of the course or program attended, dates of attendance, the length of the course or program, the sponsoring organization and the accrediting organization, if any, which may be needed in the event of an audit by the Board division.

Note

Authority cited: Section 2018, Business and Professions Code.

Reference: Sections 2005 and 2190, Business and Professions Code.

TITLE 16. Medical Board of California

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at **Embassy Suites San Francisco Airport, 150 Anza Boulevard, Burlingame, California 94010 at 9:00 a.m., on May 8, 2009**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office **not later than 5:00 p.m. on April 27, 2009** or must be received at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 2190 of said Code, the Board is considering changes to Article 11 of Chapter 1 of Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1338: Modification to Continuing Medical Education Audit

Business and Professions Code Section 2190 authorizes the Board to adopt and administer standards for the continuing education of its licensees. Existing regulations provide direction to the Board to audit once each year a random sample of physicians who have reported compliance with the continuing education requirement.

This proposal would allow the Board to perform the audit in twelve equal batches throughout the year to make the workload manageable, predictable and consistent.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor Savings. The Medical Board will save some funding as the workload can be accomplished with existing resources and no overtime will be used.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on 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.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. This proposed change will only affect the Board's internal procedures related to how it performs the CME audit. It will not change how licensees renew their licenses or verify the completion of continuing education requirements.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may

be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website:

http://www.medbd.ca.gov/laws/regulations_proposed.html.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website:

http://www.medbd.ca.gov/laws/regulations_proposed.html.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the Board's website: http://www.medbd.ca.gov/laws/regulations_proposed.html.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Ian K. McGlone
Address:	2005 Evergreen Street, Suite 1200 Sacramento, CA 95816
Telephone No.:	(916) 263.0920
Fax No.:	(916) 274.6181
E-Mail Address:	imcglone@mbc.ca.gov

The backup contact person is:

Name:	Kevin A. Schunke
Address:	2005 Evergreen Street, Suite 1200 Sacramento, CA 95816
Telephone No.:	(916) 263.2368
Fax No.:	(916) 263.2387
E-Mail Address:	kschunke@mbc.ca.gov

Website Access : Materials regarding this proposal can be found at http://www.medbd.ca.gov/laws/regulations_proposed.html.