

**MEDICAL BOARD OF CALIFORNIA**  
**INITIAL STATEMENT OF REASONS**

Hearing Date: 1 February 2008

Subject Matter of Proposed Regulations: Delegation of Services – Physician Assistants

(1) Section Affected: 1399.540

Specific Purpose of each adoption, amendment, or repeal:

The existing regulation requires that a physician assistant may only provide 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.

This proposal would formally recognize that the writing which delegates the medical services to the physician assistant be known as a "Delegation of Services Agreement" and require that it now be signed and dated by both the supervising physician and physician assistant.

This proposal would also allow the delegation of services agreement to be signed by more than one supervising physician only if the same medical services have been delegated by each supervising physician. Also, a physician assistant may provide medical services pursuant to more than one delegation of services agreement.

Factual Basis/Rationale

Section 1399.540 of the Physician Assistant regulations states, in part, "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."

These writings which delegate the medical services performed by the physician assistant are the foundation of the physician assistant's practice. The document specifies the names of the supervising physicians who will supervise the physician assistant. It also specifies what type of medical services the physician assistant will perform, how they are performed, how the patient charts will be reviewed and countersigned, and what type of medications the physician assistant will transmit on behalf of the supervising physician. Additionally, the

document describes emergency transport procedures for medical situations beyond the physician assistant's scope of practice.

These documents which are used by physician assistants and their supervising physicians to meet the requirements of Section 1399.540 are universally known in the medical community as a "Delegation of Services Agreement."

The current regulation, although it requires a delegation to be in writing, does not mandate that the physician assistant and his or her supervising physician sign it.

Requiring both parties to sign the document makes it more likely they understand and agree to the contents of the document and the nature of their relationship. Consumer protection would be enhanced by ensuring complete and full understanding of the contents of the delegation of services agreement. Also, with the signature of both parties, the document takes on the flavor of a true document.

Additionally, a document signed by the physician assistant and supervising physician would assist the committee with enforcement duties. Neither party could claim that they didn't agree to the delegated medical tasks or the existence of the document.

The Physician Assistant Committee lacks legal 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.

On April 26, 2007 Elberta Portman, Executive Officer of the Physician Assistant Committee, made a presentation to the members of the Division of Licensing of the Medical Board of California to request that they consider regulatory action on this matter.

After discussion, members of the Board requested that staff of the Division of Licensing schedule a work group meeting to discuss the proposed regulatory change.

A work group meeting was held on July 18, 2007. Key members from the Medical Board Division of Licensing and Legislative/Regulatory Unit, Physician Assistant Committee, Department of Consumer Affairs Legal Office, California Medical Association, and the California Academy of Physician Assistants participated in this meeting. Participants developed the proposed language.

At the November 1, 2007 Medical Board of California meeting, members requested that staff set this regulatory proposal for a hearing at their February 1, 2008 board meeting.

### Underlying Data

Technical, theoretical or empirical studies or reports relied upon:

None.

### Business Impact

This regulation will not have a significant adverse economic impact on businesses. Because the document is already required by the regulations, the only effort is in signing the document.

### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

### Consideration of Alternatives

No reasonable alternative to the regulation would be either 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 proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1) Not amend regulation. This alternative was rejected because the writings defined by section 1399.540 are known to the physician assistant community as a Delegation of Services Agreement.

2) Amend the regulation to require that the writings defined by section 1399.540 as a Delegation of Services Agreement and require that the document be signed and dated by both the physician assistant and supervising physician.

The committee determined that the second alternative was the most feasible because the title, "Delegation of Services Agreement" is now universally understood by the medical community as the title for this document. Having the document signed by both the physician assistant and supervising physician would ensure that both parties understand and agree with the contents of the document.

Additionally, the signed document would assist the committee with enforcement duties. Neither party could claim that they didn't agree to the delegated medical tasks or the existence of the document.

**California Code Of Regulations, Title 16  
Medical Board Of California  
Specific Language Of Proposed Changes  
Delegation Of Services Agreement**

Amend Section 1399.540 to read as follows:

**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.

(b) The writing which delegates the medical services shall be known as a delegation of services agreement. A delegation of services agreement shall be signed and dated by the physician assistant and 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.

(c) The committee or division or their representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures or management he or she is performing.

(d) 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.

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

**California Code of Regulations, Title 16  
Medical Board of California  
Specific Language of Proposed Changes  
Continuing Education Requirements**

Section 1336 is amended to read:

**§ 1336. Continuing Education Required.**

(a) Each physician is required to complete not less than 50 ~~an average of at least 25~~ hours of approved continuing education during each two year period immediately preceding the expiration date of the license calendar year. ~~calendar year.~~ If an initial license was issued for less than 13 months, only 25 hours of continuing education must be completed.

(b) Each physician renewing his or her license under the provisions of Article 19 (commencing with Section 2420) of the Medical Practice Act may be required to submit proof satisfactory to the division of compliance with the provisions of this article a minimum of every four (4) years.

(c) Each physician in order to renew his or her license at each renewal thereof shall report progress towards compliance with the continuing education requirement.

(d) Any physician who ~~does not cannot~~ complete a minimum of ~~50-100~~ hours of approved continuing education during the two-year period immediately preceding the expiration date of the license ~~a four (4) year period~~ shall be ineligible for renewal of his or her license under Section 1338 unless such physician applies for and obtains a waiver pursuant to Section 1339 below.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2190 and 2420, Business and Professions Code.

## TITLE 16. PHYSICIAN ASSISTANT COMMITTEE

NOTICE IS HEREBY GIVEN that the Medical Board of California (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 Westin Hotel-Los Angeles Airport, 5400 West Century Boulevard, Los Angeles, California 90045, at 9:05 a.m. on February 1, 2008. 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 January 21, 2008 or must be received by the Board 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 Sections 2018, 3502, and 3510 of the Business and Professions Code, and to implement, interpret or make specific Sections 3502 of said Code, the Board is considering changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1399.540.

The existing regulation requires that a physician assistant may only provide 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.

Section 3502(a) of the Business and Professions Code states, in pertinent part, that a physician assistant may only perform those medical services as set forth by the regulations of the board when the services are rendered under the supervision of a licensed physician and surgeon.

This proposal would formally recognize that the writing which delegates the medical services to the physician assistant be known as a "Delegation of Services Agreement" and require that it now be signed and dated by both the supervising physician and the physician assistant.

This proposal would also allow the delegation of services agreement to 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.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

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 because it only affects individual licensees. Licensees should already be reading and preparing the document. The only impact is that they would be required to sign the document.

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. Because the document is already required by the regulations, the only effort is in signing the document.

### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative is 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.

### 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 Medical Board of California at 1434 Howe Avenue, Suite 92, Sacramento, California 95825.

### 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 website listed below.



## CONTACT PERSON

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

Name: Kelly Nelson  
Address: 1434 Howe Avenue, Suite 92  
Sacramento, CA 95825  
Telephone No.: (916) 263-2389  
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E-Mail Address: [regulations@mbc.ca.gov](mailto:regulations@mbc.ca.gov)

The backup contact person is:

Name: Kevin A. Schunke  
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Website Access : Materials regarding this proposal can be found at:  
[www.mbc.ca.gov](http://www.mbc.ca.gov).