

STATE OF CALIFORNIA

DEPARTMENT OF CONSUMER AFFAIRS

MEMORANDUM

TO: Chairperson and Members of the Division of Licensing  
Medical Board of California

FROM: Elberta Portman, Executive Officer  
Physician Assistant Committee



DATE: October 2, 2007

SUBJECT: Regulatory Proposal for Title 16, California Code of Regulations, section  
1399.540

Please see the attached proposed language to amend Title 16 of the California Code of Regulations section 1399.540.

The Physician Assistant Committee is respectfully presenting this language to you for your consideration and approval. The Committee is also requesting that a regulatory hearing be scheduled for the Board's February 2008 meeting.

The purpose of this regulatory change is to formally recognize the writing which delegates the medical services from the physician to the physician assistant as a "Delegation of Services Agreement" and require that it be signed and dated by both the supervising physician and the physician assistant.

Also attached for your review is background information regarding this proposed regulatory change.

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

Attachment(s):  
Background information  
Proposed language

**Physician Assistant Committee  
Regulatory Proposal for Title 16, California Code of Regulations, Section  
1399.540**

**BACKGROUND INFORMATION**

On February 15, 2007, the Physician Assistant Committee (Committee) took action to amend Title 16, California Code of Regulations, section 1399.540. The Committee reviewed and approved the proposed regulatory change and the rulemaking file was submitted to Office of Administrative Law for their consideration.

During its review, OAL determined that the Committee lacked legal authority to adopt the regulation because it was considered a scope of practice issue affecting the practice of both physicians and physician assistants. The OAL opined that the authority to amend this regulation falls under the authority granted to the Medical Board of California under Business and Professions Code section 3510. On April 4, 2007, OAL disapproved the regulatory action.

On April 26, 2007, the Committee's Executive Officer made a presentation to the members of the Division of Licensing to request that they consider regulatory action on this matter.

After discussion, members of the Board requested that the Division of Licensing staff schedule a working group to discuss the proposed regulatory change and address concerns raised at the Board's meeting.

Following that direction, the working group meeting was held on July 18, 2007. Key members from the Medical Board, Division of Licensing, Board 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 suggested changes to the language and staff was assigned to draft the language.

The proposed language was then presented to members of the Physician Assistant Committee at its August 30, 2007 meeting. At the meeting, the Committee adopted the proposed language and requested staff forward the proposed language to the Medical Board of California for their review and possible regulatory action. Other parties, however, did not receive the proposed language prior to the Physician Assistant Committee meeting but the oversight has been rectified.

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**DELEGATION OF SERVICES AGREEMENT REGULATION  
SPECIFIC LANGUAGE OF PROPOSED CHANGES**

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.