

**State of California  
Office of Administrative Law**

**In re:**  
**Medical Board of California**

**Regulatory Action:**

**Title 16, California Code of Regulations**

**Amend sections: 1366.3, 1366.31, 1379.07**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2021-1210-03**

**OAL Matter Type: Regular (S)**

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This rulemaking action requires medical and midwife assistant certifying organizations to be accredited by the National Commission for Certifying Agencies and eliminates the requirement that organizations be non-profit.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2022.



**Date: February 1, 2022**

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**Eric Partington  
Senior Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Kimberly Kirchmeyer, Executive  
Director**

**Copy: Kerrie Webb**

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

**REGULAR**

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z- 2021-0524-03</b>	REGULATIONS ACTION NUMBER <b>2021-1210-035</b>	EMERGENCY NUMBER <b>5</b>
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW  
2021 DEC 10 PM 3:42

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

FEB 01 2022

1:45 PM

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Medical Board of California

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Medical and Midwife Assistant Certifying Organizations		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 16		AMEND 1366.3, 1366.31, & 1379.07	
3. TYPE OF FILING		REPEAL	
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify)			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input checked="" type="checkbox"/> Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affairs <i>Kimberly Kirchmeyer</i>			
7. CONTACT PERSON Kerrie Webb		TELEPHONE NUMBER (916) 263-2389	FAX NUMBER (Optional) (916) 263-2367 E-MAIL ADDRESS (Optional) kerrie.webb@gmail.com

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

10/25/2021

TYPED NAME AND TITLE OF SIGNATORY

William Prasifka, Executive Director, Medical Board of California

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

FEB 01 2022

Office of Administrative Law

## MEDICAL BOARD OF CALIFORNIA

### MEDICAL AND MIDWIFE CERTIFYING ORGANIZATIONS

#### ORDER OF ADOPTION

##### § 1366.3. Administration of Training.

(a) Training required in Sections 1366, 1366.1 or 1366.2 may be administered in either of these settings:

(1) Under a licensed physician or podiatrist, who shall ascertain the proficiency of the medical assistant; or under a registered nurse, licensed vocational nurse, physician assistant or a qualified medical assistant acting under the direction of a licensed physician or podiatrist who shall be responsible for determining the content of the training and the proficiency of the medical assistant except that training to administer medication by inhalation shall be provided by a licensed physician or respiratory care practitioner; or

(2) In a secondary, ~~postsecondary~~, or adult education program in a public school authorized by the Department of Education, in a community college program provided for in Part 48 of Division 7 of the Education Code, or a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education under Sections ~~941309~~94885 or ~~943119~~94887 of the Education Code and all regulations adopted pursuant to those sections. A licensed physician or podiatrist shall serve as advisor to the medical assistant training program. The instructor in a public school setting shall possess a valid teaching credential issued by the Commission on Teacher Credentialing. The instructor in a private postsecondary institution shall meet the requirements of Sections ~~94310 and 94311~~94885(a)(5) of the Education Code and ~~any all~~ regulations adopted pursuant to that section. ~~those sections~~.

(b) The supervising physician or podiatrist, pursuant to subsection (a)(1) or the instructor pursuant to subsection (a)(2) shall certify in writing the place and date such training was administered, the content and duration of the training, and that the medical assistant was observed by the certifying physician, podiatrist, or instructor to demonstrate competence in the performance of each such task or service, and shall sign the certification. More than one task or service may be certified in a single document; separate certifications shall be made for subsequent training in additional tasks or services.

(c) For purposes of this section only, a "qualified medical assistant" is a medical assistant who:

(1) is certified by a medical assistant certifying organization approved by the ~~division~~Board;

(2) holds a credential to teach in a medical assistant training program at a community college; or

(3) is authorized to teach medical assistants in a private postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education.

Note: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

### **§ 1366.31. Approved Certifying Organizations.**

(a) An organization that certifies medical assistants may apply to the ~~division~~ Board for approval. This application shall include the following information:

- (1) Name and address of the applicant;
- (2) Applicant's federal employee identification number (FEIN) ~~or social security number~~;
- (3) Name, address and telephone number of a contact person for the applicant;
- (4) ~~Name, address and telephone number of the accrediting organization that accredited the applicant;~~ Documentation establishing that the applicant is accredited by the National Commission for Certifying Agencies (NCCA);
- (5) Name, address and telephone number of the organization that validated the applicant's certifying examination;
- (6) Information sufficient to establish that the certifying organization meets the standards set forth in subsection (b).

(b) For purposes of Section 1366.3(c)(1), an organization that certifies medical assistants shall be approved if it meets all of the following standards:

- ~~(1) Is a non-profit, tax-exempt organization;~~
- ~~(2)(1)~~ Requires all applicants for certification to successfully complete a psychometrically valid examination that is secure, is occupationally relevant and tests for the skills and procedures outlined in Section 1366;
- ~~(3)(2)~~ Has a requirement for certification of a medical assistant in one or more of the following:
  - (A) Graduation from a medical assistant training program meeting the requirements under Section 1366.3(a)(2); ~~accredited by an accreditation agency recognized by the United States Department of Education;~~
  - ~~(B) Graduation from a medical assistant training program in a postsecondary institution accredited by an accreditation agency recognized by the United~~

~~States Department of Education or an institution approved by the Bureau for Private Postsecondary and Vocational Education;~~

~~(C)(B)~~ A minimum of two (2) years of experience as a practicing medical assistant within five (5) years immediately preceding the date of examination;

~~(D)(C)~~ Military training or schooling equivalent to that described in subsections (A) or (B) above;

~~(E)(D)~~ Employment at the time of certification as an instructor in an accredited medical assistant program or institution meeting the requirements under Section 1366.3(a)(2) for certification of a medical assistant;

~~(4)(3)~~ Requires its certificate holders to obtain a minimum of 60 hours of continuing education related to the practice of medical assistants over a five (5)-year period.

~~(c) A medical assistant certifying organization approved prior to the requirement for NCCA accreditation shall reapply for and obtain Board approval by meeting all of the requirements of this section by January 1, 2027, or its approval shall be terminated. The American Association of Medical Assistants and the American Medical Technologists, which were previously referenced in Section 1366.3(a), shall be deemed approved as medical assistant certifying organizations. This approval shall terminate on January 1, 2000 unless prior to that time the above certifying organizations have applied for and been approved by the division. This paragraph shall be automatically repealed on January 1, 2000.~~

Note: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

#### **§ 1379.07. Approved Certifying Organizations.**

(a) An organization that certifies midwife assistants may apply to the Board for approval. This application shall include the following information:

(1) Name and address of the applicant;

(2) Applicant's federal employer identification number (FEIN);

(3) Name, address and telephone number of a contact person for the applicant;

(4) Documentation establishing that the applicant is accredited by the National Commission for Certifying Agencies, ~~or an accrediting organization that is equivalent thereto;~~

(5) Name, address and telephone number of the organization that validated the applicant's certifying examination;

(6) Information sufficient to establish that the certifying organization meets the standards set forth in subsection (b).

(b) For purposes of section 1379.06(c)(1), an organization that certifies midwife assistants shall be approved if it meets all of the following standards:

~~(1) Is a non-profit, tax-exempt organization;~~

~~(2)~~(1) Requires all applicants for certification as a midwife assistant to successfully complete a psychometrically valid examination that is secure, is occupationally relevant and tests for the skills and procedures outlined in section 2516.5 of the code;

~~(3)~~(2) Requires all applicants for certification as a midwife assistant to have one or more of the following:

(A) Graduation from a midwife assistant training program meeting the requirements under section 1379.06(a)(2);

(B) A minimum of two (2) years of experience, following receipt of the certificate specified in section 1379.06(b) as a practicing midwife assistant within five (5) years immediately preceding the date of examination;

(C) Military training or schooling equivalent to that described in subsections (A) or (B) above;

(D) Employment at the time of certification as an instructor in an accredited midwife assistant program or institution meeting the requirements under section 1379.06(a)(2) for certification of a midwife assistant.

~~(4)~~(3) Requires each certificate holder to renew his or her certification at least every five (5) years and obtain a minimum of 60 hours of continuing education related to the practice of midwife assistants over each five (5)-year period.

Note: Authority cited: Sections 2018 and 2516.5, Business and Professions Code. Reference: Sections 2069, 2070 and 2516.5, Business and Professions Code.

**MEDICAL BOARD OF CALIFORNIA**

**RULEMAKING FOR**

**Certifying Organizations**

**(Medical and Midwife Assistants)**

**and**

**Administration of Training for Medical Assistants**

**16 CCR sections 1366.3, 1366.31, and 1379.07**

# Notice of Proposed Regulatory Action

Attached

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## **TABLE OF CONTENTS**

- A. Notice of Proposed Regulatory Action
- B. Text of Proposed Language Originally Noticed to Public
- C. Initial Statement of Reasons
- D. Underlying Data
  - 1. January 31-February 1, 2019 Board Meeting Agenda, Relevant Meeting Materials (includes November 9, 2018 Petition for Rulemaking), and Meeting Minutes
  - 2. August 8-9, 2019 Board Meeting Agenda, Relevant Meeting Materials, and Meeting Minutes
  - 3. 2020 NCCA Accreditation Fee Schedule
- E. Statement of Mailing Notice (Original Mailing)
- F. Updated Informative Digest
- G. Final Statement of Reasons
- H. Written Comments
- I. Economic and Fiscal Impact Statement – STD. 399

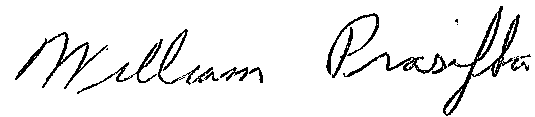
### **CLOSING STATEMENT/CERTIFICATION**

I, William Prasifka, am the agency official who compiled this rulemaking file with the assistance of my employees and agents.

I certify that I have complied with the requirements of Business and Professions Code section 313.1.

I declare under penalty of perjury under the laws of the State of California that the record in this matter closed on December 10, 2021, and reopened to make non-substantive changes and reclosed on January 27, 2022. The file and this copy of the file are complete.

Executed this 27th day of January, 2022, at Sacramento, California.

A handwritten signature in black ink that reads "William Prasifka". The signature is written in a cursive style with a large, stylized 'W' and 'P'.

Executive Director  
Medical Board of California

# Text of Proposed Language Originally Noticed to Public

Attached

(see paper e-clip at left)

# Initial Statement of Reasons Attached

(see paper e-clip at left)

# Underlying Data

## Attached

(see paper e-clip at left)

# Statement of Service by Mail

## STATEMENT OF SERVICE BY MAIL

I certify that the Medical Board of California, Department of Consumer Affairs, has complied with the requirements of Government Code Section 11346.4(a)(1) through (4) and that the notice was mailed on June 4, 2021.

DATED: June 4, 2021

*Alexandria Schembra*

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Alexandria Schembra  
Regulations Coordinator

# Updated Informative Digest

**MEDICAL BOARD OF CALIFORNIA**  
**MEDICAL AND MIDWIFE CERTIFYING ORGANIZATIONS**  
**UPDATED INFORMATIVE DIGEST**

There have been no changes to statutes or regulations which would warrant a change to the Informative Digest contained in the Notice for this rulemaking file.

# Final Statement of Reasons

DEPARTMENT OF CONSUMER AFFAIRS

**TITLE 16. MEDICAL BOARD OF CALIFORNIA**

**MEDICAL AND MIDWIFE CERTIFYING ORGANIZATIONS**

**FINAL STATEMENT OF REASONS**

**Hearing Date:** None.

**Subject Matter of Proposed Regulations:** Medical and Midwife Assistant Certifying Organizations and Administration of Training for Medical Assistants

**Section(s) Affected:** Title 16, Division 13, Chapter 2, Article 6, of the California Code of Regulations (CCR) sections 1366.3, 1366.31, and 1379.07.

**Updated Information:**

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The 45-day public comment period began on June 4, 2021 and ended on July 20, 2021. The Board's notice indicated that the Board did not intend to hold a hearing on the matter, unless requested. The Board did not receive a request to hold a hearing on this rulemaking. The Board received 94 letters of support from the public.

**Local Mandate:**

A local mandate is not imposed on local agencies or school districts.

**Small Business Impact:**

The Board has determined that this rulemaking proposal will not have a significant adverse economic impact on small businesses. As a result of this proposal, more certifying organizations may be eligible for Board approval with the elimination of the requirement that the certifying agency be non-profit. While the certifying organizations will have to be accredited by the National Commission for Certifying Agencies (NCCA), accreditation is an existing requirement, and accreditation by NCCA is an accepted national standard that certifying organizations already seek.

**Anticipated Benefits of this Proposal:**

This proposal will update the regulations for consistency with current statutes and terminology and will allow for-profit medical and midwife assistant certifying organizations to be eligible for Board approval if they are accredited by the NCCA and meet the other existing requirements for applicants. Eliminating the requirement that

the certifying organization be nonprofit may result in an increase in medical and midwife assistant certifying organizations, which could increase the options for medical and midwife assistants to choose an approved certifying organization that meets their needs. Further, this proposal seeks to ensure that certifying organizations approved by the Board meet accepted standards by requiring accreditation by the NCCA. When applying for Board approval, the certifying organization would submit their certificate of accreditation as documentation establishing NCCA accreditation. Consequently, this proposed rulemaking will improve accessibility and credibility of the certifying agencies approved by the Board, while removing a barrier to qualify for Board approval.

### **Consideration of Alternatives:**

No reasonable alternative considered by the Board would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board considered not implementing this proposal, but upon review and consideration of the petition for rulemaking, and in order to address outdated language and references, the Board rejected this alternative.

No other alternatives have been proposed or otherwise brought to the Board's attention.

### **Fiscal Impact:**

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. The Board anticipates a minor, short-lived increase in its workload to update existing policies and procedures for consistency; however, the Board has existing staffing for these purposes.

### **Objections or Recommendations/Responses:**

The 45-day public comment period began on June 4, 2021 and ended on July 20, 2021. The Board did not hold a hearing. The Board received 94 written comments in the form of letters, emails, and faxes, all of which were in support of the regulatory proposal, including a petition in support containing several hundred signatures.

The Board did not receive any objections, negative comments, or recommendations to change the proposed text.

# Written Comments

**MEDICAL BOARD OF CALIFORNIA**  
**MEDICAL AND MIDWIFE CERTIFYING ORGANIZATIONS**  
**WRITTEN COMMENTS**

The Medical Board of California received 94 public comments in support of this rulemaking.

Std. Form 399  
*Economic  
And Fiscal  
Impact  
Statement  
Attached*

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