



DEPARTMENT OF CONSUMER AFFAIRS • PHYSICIAN ASSISTANT BOARD

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# MEMORANDUM

<b>DATE</b>	June 30, 2021
<b>TO</b>	Physician Assistant Board (Board)
<b>FROM</b>	Rozana Khan, Executive Officer Karen Halbo, Regulations Counsel, Attorney III
<b>SUBJECT</b>	Agenda Item 11. Amending 16 CCR Section 1399.616, Implicit Bias CME

**Background**

Assembly bill (AB) 241 (Kamlager-Dove, Chapter 417, Statutes of 2019) amended Business and Professions Code (BPC) section 3524.5 to require continuing education courses for physician assistants that contain a direct patient care component to include instruction in the understanding of implicit bias and the promotion of bias-reducing strategies.

At the January 13, 2020 meeting, Board members voted to approve proposed changes to 16 CCR section 1399.616 to implement the changes made to BPC §3524.5. Notice of the proposed regulatory change was published on April 9, 2021, and the 45-day public comment period closed on May 25, 2021.

**Public Comment Received**

One public comment was received in the form of an email sent by Catherine V. Caldicott of PBI Education. Ms. Caldicott asked the Board to clarify the meaning of “direct patient care component” as used in the proposed amendment to 16 CCR §1399.610. The comment states that PBI education, as an approved provider of CME courses for the Board, provides courses in professional boundaries, ethics and professionalism, and civility and communication, but those courses do not contain instruction on clinical matters, such as diagnosis and treatment.

**Board Response to the One Public Comment**

The term “direct patient care component” used in the proposed amendments comes from the statute, which reads in pertinent part:

BPC §3524.5: “. . .

(b)(1) The board shall adopt regulations to require that, on or after January 1, 2022, all continuing education courses for licensees under this chapter contain curriculum that includes the understanding of implicit bias. . . .

(c) Notwithstanding the provisions of subdivision (b), a continuing education course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain curriculum that includes implicit bias in the practice of physician assistants.” (emphasis added)

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The term “direct patient care component” comes directly from the statute and in this regulation the Board simply implements the statute. Direct care is that which involves direct interaction with the patient, and can encompass a broad variety of tasks, including assessments, treatments, counseling, patient education, administration of medicine – any task appropriately authorized by a PA’s supervision physician that involves direct interaction with the patient.

The comment seems to interpret the legislature’s “carve out” – eliminating this requirement for PA CME courses that do not contain a direct patient care component - almost exactly backwards. A course that does not contain a “direct patient care component” might address medical charting, research methods, or learning how to use certain medical equipment, all instruction which need not involve interaction with the patient.

The courses described in the comment, such as professional boundaries, ethics and professionalism, and civility and communication – all teach skills that are critical components in providing direct patient care. To be adequate as CME, a course could not merely address those topics in the abstract. Professional boundaries, ethics, professionalism, civility, and good communication must be taught in relation to a PA’s interactions with other people. A CME course on those topics that covered those topics only in regards to the general public and fellow health care providers and ignored the applicability of the topics to a PA’s interactions with the patient would be patently inadequate.

Under the statute and this regulation, the courses described in the comment are required to contain curriculum that includes implicit bias, and greater detail as to what an implicit bias curriculum encompasses may be found in BPC §3524.5(d). Staff does not recommend the Board amend the proposed language to provide an additional definition of the term “direct patient care.”

### **Action Requested**

The Board is asked to make a motion to reject the public comment received during the 45-day public comment period and adopt the response provided above for inclusion in the Final Statement of Reasons. The Board is also asked to direct staff to take all steps necessary to complete the rulemaking process including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to 16 CCR 1399.616 as noticed.

### **Attachments:**

1. Email from the Catherine V. Caldicott of PBI Education, dated April 12, 2021

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**From:** [Catherine Caldicott](mailto:Catherine.Caldicott@pbieducation.com)  
**To:** [Dhillon, Jasmine@DCA](mailto:Dhillon.Jasmine@DCA)  
**Subject:** Question about amendment to Title 16, CA PA Board  
**Date:** Monday, April 12, 2021 10:59:59 AM

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[EXTERNAL]: [catherine@pbieducation.com](mailto:catherine@pbieducation.com)

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Hello, Ms. Dhillon,

I am writing on behalf of PBI Education, an approved provider of CME courses for the California Physician Assistant Board. I wonder if you could clarify the wording of the Board's proposed amendment to Title 16, section 1399.616, regarding Approved Continuing Medical Education Programs. Specifically, I am inquiring about the phrase "direct patient care component."

On the face of it, the language seems clear enough. Yet many licensees who attend our courses in professional boundaries, ethics and professionalism, and civility and communication are there because of issues of misconduct that occurred in a clinical setting. Our courses do not provide instruction in clinical matters, such as diagnosis or treatment. Our courses provide remedial instruction in behaviors that pertain to one's professional role.

If you could clarify this, I would be most appreciative. Thank you very much.

Best regards,

Catherine Caldicott

**Catherine V. Caldicott, MD, FACP**

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PBI Education

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**The PBI METHOD**



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