

MEMORANDUM

DATE	February 7, 2022
TO	Physician Assistant Board
FROM	Jasmine Dhillon, Legislative/Regulatory Analyst Karen Halbo, Regulations Counsel, Attorney III
SUBJECT	Agenda Item 13. Regulatory Update February 2022

1. 16 CCR 1399.523.5 – AB 2138: Required Actions Against Registered Sex Offenders

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
6/5/2020	6/8/2020	N/A	8/11/2020	10/8/2020	4/2/2021	5/18/2021
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date
N/A	N/A	10/11/2021	11/4/2021	11/5/2021	12/20/2021	

This regulation provides applicants the opportunity to supply evidence to the Board of rehabilitation without being automatically denied a license based on sex offender registration. Assembly Bill (AB) 2138 (Lowe, Chapter 995, Statutes of 2018) was enacted to reduce licensing and employment barriers for people who are rehabilitated. Due to AB 2138, a registered sex offender is eligible for licensure if they have obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, have been granted clemency or a pardon by a state or federal executive, or have made a showing of rehabilitation. The Board needs to vote to adopt the proposed language for 16 CCR section 1399.523.5 which was published for the 45-day public comment period, and on which no public comments were received.

The revised proposed regulatory language was approved and adopted by the Board at its November 8, 2021 meeting. Agency approved this package on December 17, 2021 and it was filed with the Office of Administrative Law (OAL) on December 20, 2021.

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2. 16 CCR 1399.514, 1399.615 – SB 697: License Renewal and Continuing Medical Education Required

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
2/12/2020	01/13/2020	07/15/2021				
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date

This regulatory proposal will clarify, interpret, and make specific all requirements for license renewal. It consolidates all of the renewal requirements in one location and clarifies that the licensee status for those who do not renew by their expiration date is “expired with no practice permitted.” This proposal also incorporates the new CME requirement imposed by SB 697. At the May 28, 2020 Board meeting, the Board voted to rescind the Board's prior proposed text, and approved changes to the language of 16 CCR section 1399.514. The Board needs to vote to adopt the proposed language of 16 CCR sections 1399.514 and 1399.615 for publication to start the 45-day public comment period.

The revised proposed regulatory language was approved and adopted by the Board at its November 8, 2021 meeting. Staff will be working on initial documents to submit for initial review, this calendar year.

3. 16 CCR 1399.616 – AB 241: Implicit Bias Training in Approved Continuing Medical Education Programs

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
6/18/2020	8/7/2020	N/A	8/7/2020	11/17/2020	4/9/2021	5/25/2021
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date
8/9/2021	N/A	10/21/2021	11/30/2021	12/6/2021	12/13/2021	4/1/2022

The proposed amendments bring the Board's regulations into compliance with AB 241 (Kamlanger-Dove, Chapter 417, Statutes of 2019) by adding a new provision to existing 16 CCR 1399.616 subdivision (a) that requires medical continuing education (CME) programs to meet new implicit bias curriculum

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requirements to be approved by the Board. AB 241 requires the Board to adopt regulations for compliance with the bill by January 1, 2022. The changes require all CME courses for physician assistants that contain a direct patient care component to contain curriculum that includes instruction in the understanding of implicit bias in medical treatment. The bill requires, by January 1, 2023, both that CME providers offering CME courses with a direct patient care component comply with AB 241's provisions, and that the Board begin auditing CME providers for compliance at least once every five years. The 45-day public comment period for this regulatory proposal ran from April 9, 2021 to May 25, 2021, and one public comment was received. At the August 9, 2021 Board meeting, the Board voted to reject the public comment, to adopt staff's proposed response to the comment, and adopted the regulatory language.

Final documents were sent to Legal and Agency for review and once approved, the package was filed with OAL on December 13, 2021. OAL approved this package on January 25, 2022 with an effective date of April 1, 2022.

4. 16 CCR 1399.502, 1399.540, 1399.541, 1399.545 – SB 697: SB 697 Implementation

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
11/8/2021	11/8/2021					
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date

This regulatory proposal will clarify and interpret changes made to the Physician Assistant Practice Act by Senate Bill (SB) 697 (Caballero, Chapter 707, Statutes of 2019). These amendments concern the practice agreement between a physician assistant and a physician and surgeon or a group of physician and surgeons. These amendments note a practice agreement shall include policies and procedures to ensure adequate supervision of the physician assistant, as well as appropriate communication, availability, consultations, and referrals between a physician and surgeon and the physician assistant in the provision of medical services.

The proposed regulatory language passed by the Board and approved by the Medical Board of California has been revised to address concerns raised by the California Academy of PAs (CAPA) and DCA's Legal Affairs Division. The revised proposed regulatory language was approved and adopted by the Board at its

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November 8, 2021 meeting. Staff is currently working on initial documents with regulations counsel to submit for initial review.

5. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Applications, Exam Scores, Addresses, & Recordkeeping

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
11/8/2021	11/8/2021					
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date

This regulatory proposal will update existing regulations and bring them in line with changes made to the Physician Assistant Practice Act by SB 697 (Caballero, Chapter 707, Statutes of 2019, and requirements imposed by AB 2113 (Low, Chapter 186, Statutes of 2020). These amendments will specify the requirements for applications of licensure and remove the regulatory requirement that the Board establish a passing score for the licensure examination. These amendments clarify in regulation the AB 2113 mandated expedited application review for active-duty members and spouses of active-duty members of the Armed Forces of the United States, as well as refugees, asylees, and special immigrant visa holders.

The proposed regulatory language passed by the Board has been revised to address further concerns raised by the California Academy of PAs (CAPA) and DCA's Legal Affairs Division. The revised proposed regulatory language was approved and adopted by the Board at its November 8, 2021 meeting. Staff is currently working on initial documents with regulations counsel to submit for initial review.

6. 16 CCR 1399.515 – AB 2461: Retired Status to Include Fingerprint Requirement

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
8/9/2021	8/9/2021					
Board Review Comments from 45-day Comment Period	Public Hearing Held (optional)	PAB Staff work with DCA Legal on Final Rulemaking Package	Submitted to DCA for Review	Submitted to Agency for Review	Submitted to OAL for Review	Effective Date

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This regulatory proposal would require retired status licensees who seek to re-activate their license to provide fingerprints to the Department of Justice so that the Board may conduct criminal history background checks. This would eliminate the risk of the Board reactivating a license of a retired PA who got a state or federal arrest or disposition since retiring their license.

7. 16 CCR 1399.523 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines

Proposed language for Board discussion	Board Approved Language to Notice	PAB Staff work with DCA Legal on Pre-review of Documents	Submitted to DCA for Initial Phase Review	DCA Submits to Agency for Initial Review	PAB files Notice with OAL	45-Day Comment Period Ended
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This package reflects updates to the Board's Disciplinary Guidelines, which include incorporating relevant portions of the Uniform Standards Regarding Substance-Abusing Healing Arts licensees. It brings Board regulations in line with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) which required the development of the Uniform Standards.

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