

TITLE 16. PHYSICIAN ASSISTANT COMMITTEE

NOTICE IS HEREBY GIVEN that the Physician Assistant Committee 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 2005 Evergreen Street, Hearing Room 1150, Sacramento, California, at 1:15 p.m., on 28 October 2010. 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 Physician Assistant Committee at its office no later than 5:00 p.m. on 25 October 2010, or must be received by the Physician Assistant Committee at the hearing. The Physician Assistant Committee, 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, 3504.1, 3510, 3527, 3528, 3529, 3530, 3531, 3532, 3533 Business and Professions Code and Section 11400.20 Government Code, and to implement, interpret or make specific Sections 729, 3504.1, 3510, 3514.1, 3519.5, 3527, 3528, 3529, 3530, 3531, 3532, 3533 Business and Professions Code, Sections 11400.20, 11415.60, 11425.50(e), 11415.60 Government Code, and Section 44010 Education Code, the Physician Assistant Committee is considering changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 3510 authorizes the Physician Assistant Committee (Committee) to adopt, amend, or repeal regulations as may be necessary to enable it to carry into effect the provisions of the Physician Assistant Practice Act. The Committee is proposing the following changes:

Business and Professions Code section 3504.1 mandates that protection of the public shall be the highest priority of the Committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This proposal would make specific regulatory changes to enhance the Committee's mandate of consumer protection.

This proposal would delegate authority to the Executive Officer the ability to accept default decisions, to approve settlement agreements for revocation, surrender, default decisions, or interim suspension of a license.

This proposal would authorize the Committee to order an applicant for licensure to submit to a physical or mental examination if it appears that the applicant may be unable to safely perform the duties and functions of a physician assistant due to physical or mental illness affecting competency. Additionally, if after receiving the evaluation report the Committee determines that the applicant is unable to practice safely, the Committee may deny the application.

This proposal would also require that in specific cases of a licensee having sexual contact with a patient or any finding that a licensee has committed a sex offense, or been convicted of a sex offense, a proposed decision would contain an order revoking the license. The proposed order could not contain an order staying the revocation of the license.

Additionally, this proposal would define required disciplinary action to be taken by the Committee against registered sex offenders who are applicants or licensees.

The proposal would, in addition to conduct described in Business and Professions Code Section 3527, define "Unprofessional Conduct" as prohibiting the inclusion of provisions in civil dispute settlement agreements prohibiting a person from contacting, cooperating with, filing, or withdrawing a complaint with the Committee.

The definition of "Unprofessional Conduct" would also include failure of the licensee to provide lawfully requested documents; the commission of any act of sexual abuse or misconduct; failure to cooperate with an investigation pending against the licensee; failure to report an indictment, charging a felony, arrest, conviction of the licensee; failure to report any disciplinary action taken by another licensing entity or authority; or failure to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the Committee.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None.

Business Impact:

The Committee 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.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The Committee 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 because it only affects individual licensees.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Committee are costs associated with a disciplinary order. Costs only affect individuals who are applying for licensure or licensees being disciplined. These costs may include fees for a physical or mental examination and attorney fees associated with license denial or disciplinary action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not affect small businesses because the regulations are applicable only to applicants or physician assistants who are disciplined by the Committee.

CONSIDERATION OF ALTERNATIVES

The Committee must determine that no reasonable alternative it 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 Committee has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. It may be obtained at the hearing or prior to the hearing upon request from the Committee at 2005 Evergreen Street, Suite 1100, Sacramento, California 95815 or on the Committee's website at: www.pac.ca.gov.

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 Committee at 2005 Evergreen Street, Suite 1100, Sacramento, California 95815 or on the Committee's website: www.pac.ca.gov.

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: Glenn Mitchell
Address: 2005 Evergreen Street, Suite 1100
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The backup contact person is:

Name: Elberta Portman
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Website Access : Materials regarding this proposal can be found at:
www.pac.ca.gov.