

PHYSICIAN ASSISTANT COMMITTEE

INITIAL STATEMENT OF REASONS

Hearing Date: 13 August 2009

Subject Matter of Proposed Regulations:

Sections Affected: Adopt Sections 1399.615, 1399.616, 1399.617, 1399.618, and 1399.619. Amend Section 1399.571.

Problem Addressed:

1) Assembly Bill 2482 (Stats. 2008, Chapter 76) authorizes the committee to require a physician assistant licensee to complete continuing medical education (CME) as a condition of license renewal. The requirement may be met by completing 50 hours of continuing medical education every two years or by obtaining certification by the National Commission on Certification of Physician Assistants (NCCPA) or other qualified certifying body as determined by the committee.

This proposal would implement the provisions of AB 2482 by establishing the criteria for complying with the statute, administrative provisions for non compliance, record keeping requirements, approved course providers, audit and sanction provisions for noncompliance, and waiver provisions.

Additionally, this proposal would establish an inactive status allowing a licensee to be exempt from renewal or continuing medical education requirements.

2) Business and Professions Code Section 125.9 and 148 permit the Physician Assistant Committee to establish, by regulation a citation and fine program.

This proposal would delete a list of specific laws and regulations for which the committee may issue citations and replace it with categories for which it may cite. This amendment allow the committee to issue citations and fines based on violations of the Physician Assistant Practice Act, regulations adopted by the committee, now including the continuing medical education requirements added above, and other statutes or regulations upon which the committee may base a disciplinary action. Future regulatory changes to this section will be avoided.

Specific Purpose of each adoption, amendment, or repeal:

(1) Adopt Section 1399.615, Continuing Medical Education Required.

(a) This section requires that a licensed physician assistant complete 50 hours of approved continuing medical education during each renewal cycle. The standard of 50 hours was required because Assembly Bill 2482 allows the committee to require no more than 50 hours of continuing medical education every two years. Members of the task force believed that 50 hours was a reasonable amount of hours to ensure that physician assistants maintain clinical competency.

(b) Allows the physician assistant who is certified by the National Commission on Certification of Physician Assistants to be considered compliant with continuing medical education requirements because the National Commission on Certification of Physician Assistants has similar or more stringent requirements for continuing medical education.

(c) Requires each physician assistant to report compliance with continuing medical education by declaration at the time of renewal.

(d) Failure to complete hours prior to the time of renewal would render the licensee ineligible for renewal unless a waiver is obtained.

(e) This proposal would also establish a record keeping requirement. The committee determined that this requirement would be the most efficient means for ensuring compliance with continuing medical education requirements since this proposal does not require the licensee to submit continuing medical education records at the time of renewal. Licensees would indicate their continuing medical education compliance when renewing their license. Retention of the records for four years was determined to be a reasonable time period and would ensure that documentation was available should the licensee be selected for an audit.

(2) Adopt Section 1399.616, Approved Continuing Medical Education Programs.

(a) This proposal would also recognize continuing medical education course providers that are approved by the National Commission on Certification of Physician Assistants. The providers meet specific requirements established by the National Commission on Certification of Physician Assistants to ensure that courses offered meet standards to ensure continued competency of physician assistants. These standards are recognized within the California and national physician assistant community.

Continuing Medical Education generally consists of two categories:

- Category I CME consists of live or attendance-based activities and enduring materials. Live or attendance-based activities are continuing medical education activities that physician assistants must attend. Activities such as national conferences, local workshops, seminars, or grand rounds satisfy this requirement.

Enduring materials are printed, recorded, audio, video, and electronic activities.

Participants of both live or attendance-based and enduring materials activities receive credit and documentation from the sponsoring organization upon completion of the course work.

- Category II CME is self-reported and self-designated by the physician assistant. Participants do not receive documentation of attendance. Examples of Category II continuing medical education include, reading medical journals or texts and clinical research on the internet.

The working group determined that Category I CME would be the most valuable and applicable for ensuring continued medical competency of physician assistants.

(b) Any continuing medical education obtained from a course provider not included in Section 1399.615(a) would not satisfy continuing medical education requirement, this would ensure that courses met specific educational criteria that is essential for the continuing competency of physician assistants.

3) Adopt Section 1399.617, Audit and Sanctions for Noncompliance

(a) This proposal establishes audit and sanction requirements for noncompliance. Licensees may be randomly selected for an audit to determine compliance with continuing medical education requirements. If selected, licensees would be required to submit proof of compliance. If a licensee is nationally certified by the National Commission on Certification of Physician Assistants the licensee may not be required to submit documentation if the committee may obtain verification directly from the National Commission on Certification of Physician Assistants.

(b) To ensure compliance with continuing medical education requirements, this proposal would establish sanctions for noncompliance by defining non-compliance as unprofessional conduct. In addition to taking disciplinary action, this proposal would allow the licensee to make up any deficiency during the next biennial renewal period to come into compliance. If the licensee fails to complete continuing medical education during the following renewal cycle they would be ineligible for renewal of their license.

4) Adopt Section 1399.618. Waiver of Continuing Medical Education Requirement.

The committee recognizes that there are circumstances in which a licensee is not able to meet the continuing medical education requirements. The committee is proposing to allow for a waiver of the requirements for one renewal cycle if the licensee is unable to meet the requirements due to health, military service, or undue hardship. If an application for a waiver is denied by the committee, the licensee shall be ineligible for renewal unless they comply with provisions of Section 1399.615.

5) Adopt Section 1399.619, Inactive Status.

(a) In response to numerous requests from licensees who do not wish to practice but would like to keep their license current, the committee is proposing to establish an Inactive Status. Inactive status may not be granted to licensees that are suspended, revoked, or otherwise punitively restricted by the committee. While on an inactive status, a licensee may not practice as a physician assistant.

(b) While being exempt from continuing medical education requirements, the licensee would be required to renew their license, only the continuing medical education requirement would be waived.

(c) The proposal would also establish provisions to restore an inactive license to an active status. The licensee would be required to pay the renewal fee and complete the continuing medical education requirements equivalent to that required for a single renewal period within the last two years prior to applying to restore the license to active status. Two years was selected because it would coincide with the license renewal cycle.

(d) Granting an inactive status does not deprive the Committee of its authority to institute or continue disciplinary or enforcement action against the licensee.

(e) This proposal would permit the Committee to place the licensee on an inactive status if the licensee applies for renewal by paying renewal fees, but, fails to comply with the continuing medical education requirements.

The inactive status provision is consistent with other licensing practice acts within the Department of Consumer Affairs.

6) Amend Section 1399.671, Citable Offenses.

The committee proposes to amend the provisions of section 1399.571(b) by repealing the list and replacing it with language that provides the committee with the ability to cite, where appropriate, a violation of the Physician Assistant Practice Act, regulations adopted by the committee, and any other statutes or regulations upon which the committee may base a disciplinary action. This will allow for cites for future violations not on the current list, including continuing medical education.

Factual Basis/Rationale

Factual basis for determination that each proposed change is necessary:

Assembly Bill 2482 (Stats. 2008, Chapter 76) authorizes the committee to require a licensee to complete continuing medical education (CME) as a condition of license renewal. Section 1399.615 provides that the continuing medical education requirement

may be met by completing no more than 50 hours of continuing education every two years or by obtaining and maintaining certification granted by the National Commission on Certification of Physician Assistants (NCCPA) or other qualified certifying body as determined by the committee.

In 2008, the committee established a task force to discuss implementation of AB 2482. The task force consisted of physician assistant committee members, representatives from the California Academy of Physician Assistants, American Academy of Physician Assistants, and Medical Board of California, committee legal counsel, and staff.

The task force met on 4 November 2008 and 15 January 2009 to discuss development of regulations to implement AB 2482. Both meetings were publicly noticed.

Task force members discussed and reviewed course specifics, including verification of course completion, record keeping requirements, and course providers.

The members then reviewed and edited draft regulatory language developed by Physician Assistant Committee legal counsel. The draft language was presented to the full committee at its 14 May 2009 public meeting. Members voted to set the matter for a public hearing.

This proposal would implement the requirements established of AB 2482 by requiring the licensee to complete fifty hours of approved Category I continuing medical education during the two year renewal cycle. Members of the task force believed that two years was a reasonable amount of time to complete the continuing medical education requirements and it would coincide with the license renewal cycle.

Additionally, licensees may satisfy the continuing medical education requirements by obtaining and maintaining national certification granted by the National Commission on Certification of Physician Assistants.

The existing regulation identifies a list of 73 specific statutes and regulations as citable offenses. This restricts the committee's authority to issue citations for any other violations. The committee must continually amend its regulations to obtain authority to cite on new statutes which are not included in the list of citable offenses in 1399.571(b).

By deleting the list and replacing it with general categories, it will resolve that issue for the continuing medical education change as well as future regulation changes.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

- AB 2482
- November 4, 2008 Task Force Minutes
- January 15, 2009 Task Force Minutes

Business Impact

This regulation will not have a significant adverse economic impact on businesses because it only affects individual licensees.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either 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 proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Continuing Medical Education

1) Not adopt regulations. This alternative was rejected because the committee felt consumer protection would be enhanced by requiring continuing medical education as a condition of license renewal.

2) Adopt regulations to establish continuing medical education requirements.

The committee determined that the second alternative was the most feasible because it will comply with the requirements of Assembly Bill 2582.