



# MEMORANDUM

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| <b>DATE</b>    | January 29, 2024                                                                                             |
| <b>TO</b>      | Physician Assistant Board (Board)                                                                            |
| <b>FROM</b>    | Jasmine Dhillon, Legislative and Regulatory Specialist<br>Kristy Schieldge, Regulations Counsel, Attorney IV |
| <b>SUBJECT</b> | <b>Agenda Item 13. Update on Pending Regulatory Packages</b>                                                 |

## 1. 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 |
|--------------------------------------------------|-----------------------------------|-----------------------------------------------------------|-------------------------------------------|------------------------------------------|-----------------------------|-----------------------------|
| 01/13/2020                                       | 11/08/2021                        | 7/11/2023                                                 |                                           |                                          |                             |                             |
| 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 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. At the November 6, 2023 meeting, the Board voted to adopt the revised regulatory language. Staff is currently working on initial documents with regulations counsel and the Budget Office to submit for initial review.

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**2. 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 |
|--------------------------------------------------|-----------------------------------|-----------------------------------------------------------|-------------------------------------------|------------------------------------------|-----------------------------|-----------------------------|
| 11/08/2021                                       | 11/08/2021                        | 01/19/2023                                                | 05/19/2023                                | 06/05/2023                               | 07/28/2023                  | 09/12/2023                  |
| 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              |
| 11/06/2023                                       |                                   |                                                           |                                           |                                          |                             |                             |

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 that was passed by the Board and approved by the Medical Board of California was 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 November 8, 2021 meeting. Agency approved this package on July 13, 2023, and the Notice was filed with the Office of Administrative Law (OAL) for publication on July 28, 2023 to initiate the 45-day public comment period, which ended on September 12, 2023. Three comments were received, and at the November 6, 2023 meeting, the Board adopted the revised regulatory language in response to the comments received. The 15-day comment period ended on December 20, 2023 and three comments were received. The Board needs to adopt the revised regulatory language in response to the comments received.

**3. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Application, 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 |
|----------------------------------------|-----------------------------------|----------------------------------------------------------|-------------------------------------------|------------------------------------------|---------------------------|-----------------------------|
| 11/08/2021                             | 11/06/2023                        |                                                          |                                           |                                          |                           |                             |

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| 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 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 the requirements imposed by AB 2113 (Low, Chapter 186, Statutes of 2020). These amendments 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 submitted initial submission documents for Budget and Legal review which was completed on July 29, 2022. The initial submission documents were approved by Agency on August 27, 2022. Notice of the proposed regulatory action was published on September 9, 2022, and the 45-day comment period closed on October 25, 2022. The Board adopted revised proposed regulatory language, which was sent out for the 15-day public comment period from November 9, 2022, to November 28, 2022, and no public comments were received. Agency approved final package documents on December 12, 2022 which were filed with the Office of Administrative Law (OAL) on December 20, 2022.

Starting in January of 2023, Regulations Counsel and staff have been working with OAL to amend the text for consistency with the initial license application. The Board adopted revised proposed regulatory language, which was sent out for the 15-day public comment period which ran from July 21, 2023, to August 7, 2023, and no public comments were received. Since these proposed regulatory changes were initially noticed on September 9, 2022, the Business, Consumer Services, and Housing Agency had one year from that date to complete the rulemaking process and re-submit the completed rulemaking file to OAL. A new rulemaking must be initiated to re-start the clock because the revisions the OAL attorney requested to the Text rendered us unable to complete the rulemaking within the 1-year notice period. At the November 6, 2023 meeting, the Board

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approved the proposed regulatory language to reinstate the rulemaking process. Staff is working on initial documents to submit for initial review.

**4. 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 |
|--------------------------------------------------|-----------------------------------|-----------------------------------------------------------|-------------------------------------------|------------------------------------------|-----------------------------|-----------------------------|
| 08/09/2021                                       | 08/09/2021                        |                                                           |                                           |                                          |                             |                             |
| 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. Staff will begin working on initial documents to submit for initial review this calendar year.

**5. 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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| 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 package reflects updates to the Board's Disciplinary Guidelines and includes 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 department-wide Uniform Standards. This regulatory proposal is on hold until the above packages are completed. Staff will work on the proposed language in the next few months for Board approval.

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