

TITLE 16. BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter "board") 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 the Embassy Suites San Diego, 601 Pacific Highway, San Diego, CA, Santa Fe Room, at 9:00 AM, on October 8, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Mischa Matsunami in this Notice, must be received by the board at its office not later than 5:00 p.m. on October 6, 2004 or must be received by the board at the hearing. The board, 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 651, 2018 and 2470 of the Business and Professions Code, and to implement, interpret or make specific Sections 651, 651.3, 2271, and 2415 of said Code, the board is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 2470 authorizes the board to adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations which are necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

1. Amend section 1399.688

This proposal would implement the statutory requirement set forth in Business and Professions Code Section 2415, which requires the California Board of Podiatric Medicine to adopt and administer regulations specifying appropriate name designations for use by doctors of podiatric medicine who wish to practice under a fictitious name.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: none

Nondiscretionary Costs/Savings to Local Agencies: none

Local Mandate: none

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: none

Business Impact:

The board 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.

AND

The following studies/relevant data were relied upon in making the above determination:

In accordance with subsection (i) of Section 2415 of the Business and Professions Code, this regulatory action would provide a clear interpretation of the guidelines set forth in part 3 of subsection (b) of said code.

This regulatory proposal would have an equal impact on all doctors of podiatric medicine licensed in California who wish to practice under a fictitious name and is consistent with statutory restrictions on podiatric medical name designations that were in place prior to January 1, 2004.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have a significant 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.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses. New language is consistent with statutory restrictions on podiatric medical

name designations that were in effect prior to January 1, 2004. B&P Code Section 2415 now requires the Board to adopt regulations that govern the use of fictitious names.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative which it considered 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 board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

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 Board of Podiatric Medicine at 1420 Howe Avenue #8, Sacramento, California 95825-3291.

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

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Mischa Matsunami
Address: 1420 Howe Avenue, Suite #8
Sacramento, CA 95825
Telephone No.: (916) 263-0315
Fax No.: (916) 263-2651
E-Mail Address: Mischa_Matsunami@dca.ca.gov

The backup contact person is:

Name: Jim Rathlesberger
Address: 1420 Howe Avenue, Suite #8
Sacramento, CA 95825
Telephone No.: (916) 263-2647
Fax No.: (916) 263-2651

Inquiries concerning the substance of the proposed regulations may be directed to Mischa Matsunami, (916) 263-0315.

Materials regarding this proposal can be found at:
<http://www.bpm.ca.gov/lawsregs/index.htm>

BOARD OF PODIATRIC MEDICINE

Specific Language

Add Section 1399.688 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.688. Advertising.

- a) A licensed doctor of podiatric medicine may advertise the provision of any professional services authorized to be provided by such license in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.

- b) A licensed doctor of podiatric medicine may be issued a permit to practice as a sole proprietor or in a partnership, group, or professional corporation under a fictitious name pursuant to Section 2415 of the code so long as it is not deceptive, misleading, or confusing. The fictitious name must include the designation "podiatric," "podiatry," "podiatrist," "foot," or "ankle."

NOTE: Authority cited: Sections 651, ~~and 2018,~~ and 2470, Business and Professions Code. Reference: Sections 651, 651.3, ~~and 2270~~ 2271, and 2415, Business and Professions Code."

BOARD OF PODIATRIC MEDICINE
INITIAL STATEMENT OF REASONS

Hearing Date: October 8, 2004

Subject Matter of Proposed Regulations: Advertising

Section(s) Affected:

Division 13.9 of Title 16, Advertising:

Amend Section 1399.688

Specific Purpose of each adoption, amendment, or repeal:

Amend Section 1399.688

The purpose of this amendment is to implement the statutory requirement set forth in Business and Professions Code Section 2415, which requires the California Board of Podiatric Medicine (Board) to adopt and administer regulations specifying appropriate name designations for use by doctors of podiatric medicine who wish to practice under a fictitious name.

Factual Basis/Rationale:

Amend Section 1399.688

Part 3 of subsection (b) of Section 2415 of the Business and Professions Code provides podiatric medical name designation guidelines that, per subsection (i) of said code, are to be enforced by the Board through regulation. This regulation would implement requirements that are consistent with statutory restrictions on podiatric medical name designations that were in place prior to January 1, 2004, but repealed per SB 1077 – Chapter 607, Statutes of 2003.

Underlying Data

None

Business Impact

This regulation will not have a significant adverse economic impact on businesses.

Specific Technologies or Equipment

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

Consideration of Alternatives

No reasonable alternative to the regulations 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 regulations.

BOARD OF PODIATRIC MEDICINE
FINAL STATEMENT OF REASONS

Hearing Date: October 8, 2004

Sections Affected: 1399.688

Updated Information

The Initial Statement of Reasons is included in the file. Minor, nonsubstantive technical changes were made to the Authority and Reference citations.

Summary of Comments

No comments were received regarding the proposed action.

Response to Comments

N/A

Local Mandate

A mandate is not imposed on local agencies or school districts.

Business Impact/Finding of Necessity

This action will not have a significant adverse economic impact on businesses. Proposed amendments make specific Section 2415 of the Business and Professions Code, specifying appropriate podiatric medical name designations applicable to all doctors of podiatric medicine practicing in California under a fictitious name.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board 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.