

## TITLE 16: BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine 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 St, Sacramento, California, at 10 am on May 31, 2016. 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 Board of Podiatric Medicine at its office not later than 5:00 p.m. on May 31, 2016 or must be received by Contact Person in this Notice, on May 31, 2016, 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 2470 of the Business and Professions Code, and to implement, interpret or make specific Sections 1399.730, 1399.731, and 1399.732 of said Code, the Board of Podiatric Medicine is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST

A. Informative Digest

This rulemaking action seeks to amend Division 13.9 of Title 16 of the California Code of Regulations (CCR) by adopting Article 13, sections 1399.730, 1399.731, and 1399.732, to provide provisions for the conduct of oral argument following the non-adoption of a proposed decision as required by section 2336 of the California Business and Professions Code. Additionally, the addition of regulations relating to amicus briefs, and the written argument submitted in response to an order of non-adoption or reconsideration will provide needed guidance to future stakeholders presenting evidentiary matters before the Board of Podiatric Medicine. The Medical Board of California has enacted regulations to comply with section 2336 by adopting 16 CCR sections 1364.30, 1364.31, and 1364.32. The Board of Podiatric Medicine has tracked the language used by the Medical Board with the only changes consisting of the use of proper numbering, and changing the words "panel" to "board" and "panel members" to "board members."

B. Policy Statement Overview/Anticipated Benefits of Proposal

In cases where the Board of Podiatric Medicine elects to non-adopt the Administrative Law Judge's decision, there are no procedural rules regarding the delivery of oral argument for the stakeholders to follow. Regulatory language governing the conduct of oral argument following the non-adoption of an ALJ decision to permit such argument has been taken from existing law from the Medical Board of California. By adopting these proposed regulations, the Board of Podiatric Medicine will achieve compliance with the requirements of section

2336 which mandates that such regulations be enacted. Additionally, stakeholders will have procedural rules to follow and this will result in orderly presentations to the Board of Podiatric Medicine regarding matters coming before it for resolution.

Additional outcomes include benefits to the health and safety of the public and general welfare of California by assuring clear procedural rules for the conduct of oral arguments, amicus briefs, and written argument submitted in response to an order of nonadoption or reconsideration. Additionally, the proposed regulations will likely increase assurances of due process, fairness and transparency.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board of Podiatric Medicine has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

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 Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board of Podiatric Medicine 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.

**If no cost impacts are known to you:**

The Board of Podiatric Medicine 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 of Podiatric Medicine has determined that the proposed regulations would not affect small businesses because this regulatory change applies to individual

licensees and not businesses..

### RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

#### Impact on Jobs/Businesses:

The Board of Podiatric Medicine 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.

#### Benefits of Regulation:

The Board of Podiatric Medicine has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment:

This regulation benefits the Board of Podiatric Medicine and all stakeholders by publishing clear rules and procedures for the conduct of oral argument after the board has issued an order of nonadoption of a proposed decision, and after the granting of a petition for reconsideration.

Additional outcomes include benefits to the health and safety of the public and general welfare of California by assuring clear procedural rules for the conduct of oral arguments, amicus briefs, and written argument submitted in response to an order of nonadoption or reconsideration. Additionally, the proposed regulations will likely increase assurances of due process, fairness and transparency.

### CONSIDERATION OF ALTERNATIVES

The Board of Podiatric Medicine must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 of Podiatric Medicine 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 any document incorporated by reference, 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, 2005 Evergreen Street, Suite 1300, Sacramento, CA 95815.

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 rulemaking action may be addressed to:

Name: Kathleen Cooper  
Address: 2005 Evergreen St. #1300  
Telephone No.: 916-263-0315  
Fax No.: 916-263-2651  
E-Mail Address: kathleen.cooper@dca.ca.gov

The backup contact person is:

Name: Jason Campbell  
Address: 2005 Evergreen St. #1300  
Telephone No.: 916-263-2650  
Fax No.: 916-263-2651  
E-Mail Address: jason.campbell@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.bpm.ca.gov](http://www.bpm.ca.gov)