

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 San Francisco Health Commission, 101 Grove Street, Room 300, San Francisco, California, at 9:00 AM, on May 16, 2003. 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 May 14, 2002 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 2015, 2018 and 2470 of the Business and Professions Code, and to implement, interpret or make specific Sections 2006, 2475, 2475.3, 2483, and 2484 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 1399.662.

Existing regulation defines the criteria observed by the board in the approval of colleges of podiatric medicine to provide professional instruction to candidates for licensure.

This proposal would remove language suggesting that the Council on Podiatric Medical Education (CPME) is a component of the American Podiatric Medical Association (APMA), as the CPME has been an independent accrediting body since the U.S. Department of Education ruling that accrediting bodies must be independent of professional associations.

This proposal would also make a technical change, which would allow subsection (a) to be consistent with the existing language of subsection (b).

2. Amend section 1399.666.

Existing regulation defines, by reference to Business and Professions Code Section 2483, training recognized by the board as equivalent to that offered by educational programs meeting the criteria set forth by the CPME.

This proposal would remove language suggesting that the Council on Podiatric Medical Education (CPME) is a component of the American Podiatric Medical Association (APMA), as the CPME has been an independent accrediting body since the U.S. Department of Education ruling that accrediting bodies must be independent of professional associations.

3. Amend section 1399.667.

Existing regulation identifies the requirements that must be met by podiatric medical residencies prior to obtaining the board's approval to provide postgraduate medical education.

This proposal would:

- 1) Amend current language in order to remove the current requirement that podiatric medical residencies must take place in a hospital setting. This current language is potentially overly restricting in that all residencies must be approved by the CPME, and meet the institutional requirements set forth by the Accreditation Council for Graduate Medical Education (ACGME) prior to obtaining board approval. Therefore, quality programs that meet these standards, and would thus be accepted by any state podiatric medical board for podiatric medical residents, may be restricted from offering positive training opportunities to podiatric residents due to this current limitation.
- 2) Make technical changes in order to establish consistency with current statute and related regulations pertaining to the Part III exam of the National Board of Podiatric Medical Examiners (NBPME), which is required by the board for licensure as a doctor of podiatric medicine.
- 3) Amend the board's criteria for residency program approval in order to maintain a consistent measure of program effectiveness by increasing the required pass rate for residents taking the licensing examination. The NBPME Part III, which has recently replaced the board's previous oral clinical licensing examination, has a nationwide pass rate of approximately 85%, while the oral exam demonstrated an approximate pass rate of 71%.

4. Amend section 1399.668.

Existing regulation identifies the application procedures for obtaining a resident's license.

This proposal would rename the section title to more accurately reflect the subject matter presented.

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:

Aside from technical changes, this proposal contains amendments pertaining to the setting in which a residency program may take place, and the approval of residency programs based on resident pass rates for the required licensing examination.

Removing the restriction that podiatric medical residencies must take place in a hospital setting will allow a greater number of positive training opportunities to be accessible to podiatric residents, and will not have any adverse economic impact on business.

Amending the residency program approval criteria observed by the board to reflect a more accurate measure of program effectiveness will ensure that residents are obtaining an acceptable level of training, and will not have any adverse impact on business.

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. Substantive changes pertain only to residency program requirements and approval criteria.

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.dca.ca.gov/bpm/about/pendregs.htm>.

BOARD OF PODIATRIC MEDICINE

Specific Language

(1) Rename Article 2 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

Article 2. ~~Applications, Podiatry Education and Residency Programs~~ Licensing, Education and Certification.

(2) Amend section 1399.662 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.662. Approved Schools.

(a) Colleges of podiatric medicine accredited by the Council on Podiatric Medical Education ~~of the American Podiatric Medical Association~~ may shall be approved by the board for the giving of professional instruction in podiatric medicine to candidates for examination and licensure as a doctor of podiatric medicine.

(b) Nothing contained in this section shall prevent the board from disapproving any college of podiatric medicine which would otherwise be approved under subsection (a) if it does not meet the requirements of the code, including Section 2483, and any regulations of the board.

NOTE: Authority cited: Sections 2015, 2018 and 2470, Business and Professions Code.
Reference: Section 2483, Business and Professions Code.

(3) Amend section 1399.666 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.666. Equivalent Training.

Equivalent training as set forth in Section 2483 of the code, shall be that training obtained through those educational programs meeting the criteria and guidelines established by the Council on Podiatric Medical Education ~~of the American Podiatric Medical Association~~ and accredited by that body, provided the training meets all requirements of the code and regulations.

NOTE: Authority cited: Sections 2015, 2018 and 2470 Business and Professions Code.
Reference: Section 2483, Business and Professions Code.

(4) Amend section 1399.667 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.667. ~~Hospitals Approved for Postgraduate Medical Education.~~

Podiatric medical residencies ~~The hospitals approved by the board for residencies in accordance with Section 2484 of the code shall be those that meet the minimum requirements set by the Council on Podiatric Medical Education of the American Podiatric Medical Association, have designated a Director of Medical Education, provide emergency medical training through emergency room rotations, measure and evaluate the progress of participants and program effectiveness, have at least a fifty seventy-five per cent pass rate for residents taking the Part III exam of the National Board of Podiatric Medical Examiners ~~board's oral clinical licensing examination~~ within the most recent five-year period, and, in the board's determination, reasonably conform with the Accreditation Council for Graduate Medical Education's Institutional Requirements of the Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements, as revised effective September 1998, which are incorporated by reference in their entirety.~~

Reasonable conformance means that, in applying such requirements, the podiatric medical equivalent should be substituted for references made to general medicine, as appropriate. For example, in regard to resident eligibility and selection, references to graduates of medical schools accredited by the Liaison Committee on Medical Education" should be interpreted as graduates of podiatric medical schools accredited by the Council on Podiatric Medical Education and approved by the California Board of Podiatric Medicine.

If a residency program falls below the specified seventy-five ~~fifty~~ per cent pass rate, the board may grant the program approval if it determines after review of reports submitted by the program ~~hospital~~ or the board's own site visit team that the program is in reasonable conformance with all applicable requirements.

NOTE: Authority cited: Sections 2015, 2018 and 2470, Business and Professions Code. Reference cited: Sections 2475, 2475.3 and 2484, Business and Professions Code.

(5) Amend section 1399.668 of Division 13.9 of Title 16 of the California Code of Regulations to read as follows:

1399.668. ~~Residency.~~ Resident's License.

In order to be issued a license under Section 2475 of the code, a graduate shall:

- (a) file an application for registration on a form provided by the board, and
- (b) provide documentation that he or she is enrolled in an approved residency program or teaching program of an approved college of podiatric medicine.

NOTE: Authority cited: Section 2470, Business and Professions Code. Reference: Sections 2006 and 2475, Business and Professions Code.

BOARD OF PODIATRIC MEDICINE
INITIAL STATEMENT OF REASONS

Hearing Date: May 16, 2003

Subject Matter of Proposed Regulations: Applications, Podiatry Education and Residency Programs

Section(s) Affected:

Division 13.9 of Title 16, Applications, Podiatry Education and Residency Programs:

Amend Sections 1399.662, 1399.666, 1399.667, 1399.668

Specific Purpose of each adoption, amendment, or repeal:

Amend Section 1399.662:

The primary purpose of this amendment is to remove any language suggesting that the Council on Podiatric Medical Education (CPME) is a component of the American Podiatric Medical Association (APMA). An additional technical amendment has been proposed in order to make subsection (a) more consistent with the current language of subsection (b).

Amend Section 1399.666:

The purpose of this amendment is to remove any language suggesting that the CPME is a component of the APMA.

Amend Section 1399.667:

The purpose of this amendment is to:

- 1) Remove the current requirement that podiatric medical residencies must take place in a hospital setting.
- 2) Establish consistency with current statute and regulations as they pertain to the licensing examination.
- 3) Adjust the board's criteria for residency program approval in order to maintain a consistent measure of program effectiveness.

Amend Section 1399.668:

The purpose of this amendment is to rename the section title to more accurately reflect the subject matter presented.

Factual Basis/Rationale:

Amend Section 1399.662:

Current language implies that the CPME is a component of the APMA; however, the CPME has been an independent accrediting body since the U.S. Department of Education ruled that accrediting bodies must be independent of professional associations.

Subsection (b) of this section states, “nothing in this section shall prevent the board from disapproving any college of podiatric medicine which would otherwise be approved under subsection (a) if it does not meet the requirements of the code, including Section 2483, and any regulations of the board,” yet, subsection (a) states that colleges of podiatric medicine accredited by CPME shall be approved by the board. Technical changes are proposed in order to establish consistency between subsections.

Amend Section 1399.666:

Current language implies that the CPME is a component of the APMA; however, the CPME has been an independent accrediting body since the U.S. Department of Education ruled that accrediting bodies must be independent of professional associations.

Amend Section 1399.667:

Current language requires podiatric residency programs to take place in a hospital setting. This language may be overly restricting in that all residencies must be approved by the CPME, and meet the institutional requirements set forth by the Accreditation Council for Graduate Medical Education (ACGME) prior to obtaining board approval. Therefore, quality programs that meet these standards, and would thus be accepted by any state podiatric medical board for podiatric medical residents, may be restricted from offering positive training opportunities to podiatric residents due to this current limitation.

Technical changes are also proposed in order to establish consistency with statutes and regulations pertaining to the licensing examination required by the board.

The board's criteria for residency program approval has been amended in order to maintain a consistent measure of program effectiveness. The Part III examination, administered by the National Board of Podiatric Medical Examiners (NBPME), has recently replaced the board's previous state oral clinical examination, and has a nationwide pass rate of approximately 85% over the past five (5) years of available data. The state oral clinical examination, however, has demonstrated an approximate pass rate of 71% over the same period. Amending this section to require residency programs to show a higher overall pass rate for residents taking the NBPME Part III examination will ensure that these programs are maintaining an acceptable level of instruction.

Amend Section 1399.668:

Technical changes are proposed in order to allow the title of this Section to accurately reflect the subject matter of its content.

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: June 6, 2003

Sections Affected: 1399.662, 1399.666, 1399.667, and 1399.668

Updated Information

The Initial Statement of Reasons is included in the file.

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.

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.