

## TITLE 16: PODIATRIC MEDICAL BOARD OF CALIFORNIA

**NOTICE IS HEREBY GIVEN** that the Podiatric Medical Board of California<sup>1</sup> 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 95815, at 10:00 a.m. on January 15, 2020. 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 Podiatric Medical Board of California at its office not later than 5:00 p.m. on January 15, 2020 or must be received by Contact Person in this Notice on January 15, 2020 at the hearing. The Board, upon its own motion or at the request 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 481, 482, 493 and 2470 of the Business and Professions Code, and to implement, interpret or make specific Sections 141, 480, 481, 482, 488, 490, 493, 2221, 2222, 2227, 2228, 2229, 2307, 2460.1, 2486 and 2488 of said Code, the Podiatric Medical Board of California is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

### **INFORMATIVE DIGEST**

#### A. Informative Digest

The Podiatric Medical Board of California (PMBC) is a licensing board within the Department of Consumer Affairs. Business and Professions Code (BPC) section 2470 authorizes PMBC to adopt, amend or repeal regulations necessary to enable it to carry into effect the provisions of law relating to the practice of podiatric medicine.

Currently, doctors of podiatric medicine (DPMs) are subject to the regulations adopted by the Medical Board of California (MBC) relating to enforcement set forth in Article 3 of Chapter 2 of title 16 of the CCR. This rulemaking action seeks to amend section 1399.659 of the Podiatric Medical Board of California's regulations in Article 1, Division 13.9, of title 16 of the California Code of Regulations (CCR) to establish that DPMs, whose certificates have been subject to disciplinary action, will be subject to the regulations adopted by MBC relating to probation and reinstatement of suspended or revoked certificates, except where those provisions are in conflict or inconsistent with Article 1 of PMBC's regulations.

Under current law and until July 1, 2020, boards are authorized to deny an application

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<sup>1</sup> Effective July 1, 2019, BPM is renamed the Podiatric Medical Board of California (PMBC). (Bus. & Prof. Code, § 2460.)

for licensure based on a conviction of a crime or act that is substantially related to the licensed business or profession, with certain limitations, and suspend or revoke a license on the basis that the licensee was convicted of a substantially related crime. Boards were also required to develop criteria to evaluate a person's rehabilitation when considering the denial, suspension, or revocation of a license. Accordingly, boards adopted criteria via regulation to help them evaluate whether a crime or act was substantially related to the licensed profession and whether a person was rehabilitated when considering whether to deny, suspend, or revoke a license.

Assembly Bill 2138 (Chiu and Low, Chapter 995, Statutes of 2018) (AB 2138), effective July 1, 2020, requires boards to amend their existing regulations for use when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions or duties of the practice of the licensed business or profession, and to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license. This rulemaking proposes the adoption of such criteria in conformance with the requirements of AB 2138.

#### B. Policy Statement Overview/Anticipated Benefits of Proposal

Effective January 1, 2018, the Podiatric Medical Board of California (PMBC) was created as an entity within the Department of Consumer Affairs independent of the jurisdiction of the Medical Board of California (MBC), and is authorized to deny, suspend, or revoke a license or take disciplinary action against a doctor of podiatric medicine (DPM).<sup>2</sup> PMBC is proposing to amend and add regulations relating to licensing and enforcement specific to its licensed population. As PMBC currently utilizes many of the enforcement regulations adopted by MBC, amending regulation section 1399.659 and adopting 1399.659.1 and 1399.659.2, addresses the requirements of AB 2138 establishes substantial relationship and rehabilitation criteria specifically DPMs. This proposal would benefit the Board's licensees and the public by clarifying which regulations relating to probation and reinstatement of suspended or revoked certificates apply to DPMs. Specifically, the proposal would clarify that DPMs, whose licenses have been subject to disciplinary action by the Board, will be subject to the regulations adopted by the MBC relating to probation and reinstatement of suspended or revoked certificates, except where these provisions are in conflict or inconsistent with Article 1 of PMBC's regulations.

#### C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, PMBC has

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<sup>2</sup> Senate Bill 798 (SB 798) (Hill, Chapter 775, Statutes of 2017) was enacted and created PMBC within the Department of Consumer Affairs, independent of MBC.

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 Podiatric Medical Board of California 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.

Cost Impact on Representative Private Person or Business: The Podiatric Medical Board of California 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 Podiatric Medical Board of California has determined that the proposed regulations may have a nominal impact on small businesses as this rulemaking may result in additional licensees working in the state.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

Impact on Jobs/Businesses:

The Podiatric Medical Board of California has determined that this regulatory proposal may have an impact on the creation of jobs as individuals with criminal histories may be able to obtain a license to practice podiatric medicine where in the past such individuals may have been excluded due to prior criminal activity. As to new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California, it is believed that this regulatory proposal will likely have no impact or a nominal impact.

### Benefits of Regulation:

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

The regulatory proposal may result in additional doctors of podiatric medicine, which may result in greater access to podiatric care for California residents. PMBC has not determined that this will have any benefit to worker safety or the state's environment.

### **CONSIDERATION OF ALTERNATIVES**

The Podiatric Medical Board of California 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 Podiatric Medical Board of California 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 Podiatric Medical Board of California, 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  
Sacramento, CA 95815

Telephone No.: 916-263-0315  
Fax No.: 916-263-2651  
E-Mail Address: kathleen.cooper@dca.ca.gov

The backup contact person is:

Name: Brian Naslund  
Address: 2005 Evergreen St. #1300  
Sacramento, CA 95815

Telephone No.: 916-263-2650  
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Website Access: Materials regarding this proposal can be found at <https://www.pmbc.ca.gov/lawsregs/index.shtml>