

AGENDA ITEM 6

UPDATE AND TAKE ACTION, IF NECESSARY, ON PENDING RULEMAKING FILES, CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 39.

The Regulations Update report is attached for review.

REGULATIONS UPDATE REPORT

Pending Regulatory Amendments: Process Not Yet Started

Rulemaking File Subject	Section	Priority	Status	Comments
Notification to Consumers	4176	1	Board approved language for noticing at September 2015 meeting.	Language implements BPC sections 138, 680 and 680.5
Continuing Competency	4161 4162 4163	1	Board approved language for noticing at June and September 2015 meetings.	
Criteria to consider when the board refuses to hear a petition while the individual is on court-ordered probation/parole or subject to PC 290 registration	4149.5	2	Ad-Hoc Committee to recommend criteria for the Board to consider when a petition for reinstatement is received by a petitioner who is on court-ordered probation or parole or subject to PC 290 registration. Board approved language for noticing at November 2015 meeting.	Language provides specificity to language in BPC section 2570.32
Accept PT license for Hands/PAMs approval	4151 4152	3	Board approved language for noticing at September 2015 meeting.	
Language for OT to request to supervise more than 2 OTAs	tbd	tbd	Practice Committee to prepare language; draft language to be presented to the Board at Winter 2016 meeting.	Language would implement BPC 2570.3(j)(2).
Patient record retention requirements when a business is closed/sold/inherited or has a change of ownership; or if practitioner is no longer in private practice	tbd	tbd	Practice Committee to prepare language; draft language to be presented to the Board at Winter 2016 meeting.	Language provides specificity to language in BPC 2570.185.

REGULATIONS UPDATE REPORT

Pending Rulemaking files: In-Process

Rulemaking File Subject	Section(s)	Status	Close of public comment period	Date Pkg Sent to DCA	Date Pkg Rtn'd from DCA	Final Pkg Due to OAL	Actual Submit Date To OAL	Date language goes into/ went into effect
Ethical Standards of Practice	4170	Language published April 10, 2015; adopted by Board at June 2015 meeting. Modified text adopted at January 2016 meeting.	05/26/2015	08/03/2015 <i>Resubmit</i> 01/25/2016	03/07/2016	04/08/2016	03/24/2016	07/01/2016
Application	4110	Language published July 31, 2015; edits to application needed. Modified text adopted at January 2016 meeting.	09/15/2015	02/16/2016		07/30/2016		
Standards of Practice for Telehealth	4172	Language published September 25, 2015; Modified text adopted at January 2016 meeting.	11/09/2015	05/16/2016		09/24/2016		
Fees	4130	Language published April 25, 2016	05/09/2016			03/24/2017		


**DISCUSSION AND POSSIBLE ACTION ON ESTABLISHING POLICY TO
LIMIT THE AMOUNT OF TIME PAST DISCIPLINE IS DISCLOSED AS
PUBLIC INFORMATION AVAILABLE ON THE INDIVIDUAL'S LICENSING
RECORD.**

The following is attached for review:

- May 2010 Memo from DCA
- BPC Sections



MEMORANDUM

DATE	May 21, 2010
TO	Executive Officers and Bureau Chiefs
FROM	Brian J. Stiger Director 
SUBJECT	Web Site Posting of Accusations and Disciplinary Actions

Background

On November 4, 2008, Carrie Lopez, Former Director, instructed the healing arts boards to post filed accusations, which are public records, on their respective websites. Providing consumers with immediate access to these formal charging documents enables them to make informed decisions when choosing the services of a licensed professional.

While many entities in the Department post filed accusations on their website, others only post summaries or require consumers to contact them directly to obtain copies. Some boards and bureaus have statutes to require the posting of certain information on the Internet; however, there is no statute that prohibits the posting of the actual filed accusation document on a board or bureau's website.

Accordingly, I have determined that greater transparency and consistency in disclosing public documents relating to the enforcement actions of boards and bureaus furthers the Department's consumer protection efforts. Therefore, to achieve this transparency the Department's goal is to have all boards and bureaus post filed accusations and disciplinary decisions on the licensee's profile.

Action Required

Effective immediately, I am exercising my authority to protect the interests of consumers by directing each board and bureau that is not expressly prohibited by statute to post all filed accusations, in their entirety, on their respective websites. Furthermore, from this date forward, any new filed accusations served and disciplinary decisions adopted shall also be posted on the board's or bureau's website in its entirety.

Boards and bureaus that currently have the CAS public disclosure program shall use that capability to post filed accusations and disciplinary decisions on the licensee's profile.

The Office of Information Services will work with the remaining boards and bureaus to enable them to post filed accusations and disciplinary actions via the CAS public disclosure program or other means as necessary.

To the extent a board or bureau requires assistance making these documents available to the public; the Department is available to provide that assistance. If your board or bureau requires assistance to comply with this directive, please contact Paul Riches, Deputy Director of Enforcement and Compliance (916) 574-8214.

Business & Professions Code, § 108.

Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective board.

Business & Professions Code, § 110.

The department shall have possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations, land and other property—real or personal—now or hereafter held for the benefit or use of all of the bodies, offices or officers comprising the department. The title to all property held by any of these bodies, offices or officers for the use and benefit of the state, is vested in the State of California to be held in the possession of the department. Except as authorized by a board, the department shall not have the possession and control of examination questions prior to submission to applicants at scheduled examinations.

Business & Professions Code, § 2570.25.

Protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.