STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR
Medical Board of California
BOARD OF PODIATRIC MEDICINE
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LICENSING COMMITTEE
May 20, 2015

SUBJECT: DRAFT LANGUAGE CORRECTING SCRIIVENER'S ERRORS IN REGULATION SECS. 1399.671, 1399.673 and 1399.676,

18

ACTION: APPROVE PROPOSED DRAFT LANGUAGE CORRECTING SCRIVENER'S ERRORS CONTAINED IN SECTION 1399.671 et al. AND DIRECT THE EXECUTIVE OFFICER TO INITIATE THE REGULATORY PROCESS

RECOMMENDATION

Approve the proposed draft language correcting scrivener's errors contained in 16 California Code of Regulations ("CCR"), Division 13.9, Sec.1399.671; Sec.1399.673, and Sec. 13.676, and direct the Executive Officer to initiate the regulatory process to implement the proposed regulatory corrections to the Board of Podiatric Medicine ("BPM") Regulations.

ISSUE

Current BPM Regulations concerning the approval of continuing education courses contain incorrect citations that are confusing.

DISCUSSION

Board of Podiatric Medicine regulations sections 1399.670, 1399.671, and 1399.676 address the approved categories of Continuing Medical Education ("CME") and additional requirements for approval of CME by BPM, respectively. Together these regulations provide that program organizers offering educational courses or programs lacking previous CME credit approval from other recognized accrediting bodies may apply to BPM for CME course or program approval

After staff review and analysis, it appears that certain citation errors resulted from a failure to correct certain section and subsection references during 1984 and 2003 amendments. As a result, stakeholders seeking approval of CME courses

from BPM could become confused. To correct these errors, each of three sections concerning CME courses require minor and nonsubstantive revisions.

The following Sections are affected:

Section 1399.671. Criteria for Approval of Courses
Section 1399.673. Survey of Need and Self-Assessment Required
Section 1399.676. Audit and Sanctions for Noncompliance

Section 1399.670 sets forth six categories of Continuing Medical Education ("CME") providers. Subsections 1399.670 (a) through (e) list providers that do not require BPM approval. The sixth category described in Subsection 1399.670(f) requires providers to apply to the BPM for approval by following the requirements prescribed in Sec. 1399.671.

However, when referring to section 1399.671, proposed providers seeking approval under section 1399.670(f) find that section 1399.671 cites to a non-existent subsection within itself rather than referring to 1399.670(f) as was intended. Thus, several references to 1399.671(e) need to be amended to 1399.670(f) and several references to 1399.671 in section 1399.671 need to be changed to 1399.670. These proposed corrections will assist providers seeking approval from BPM.

Section 1399.673 ensures that providers understand the recommended obligation to survey educational needs and to self-evaluate to determine whether the objectives of the CME program have been met. These suggested actions are proposed for all approved CME providers except residency programs and clinical fellowships. However, section 1339.673 refers to providers listed in 1399.671 which only include those approved by the Board and not the complete list of approved providers contained in 1399.670. Thus, reference to section 1399.671 in section 1399.673 needs to be changed to 1399.670. These proposed changes will also assist all CME course providers.

By fixing the incorrect citations in Section 1399.676, the BPM is ensuring licensees have clarity when attempting to comply with the BPM's auditing of their continuing education courses and imposing sanctions for noncompliance.

ALTERNATIVES

The Board may choose not to approve the proposed draft regulatory changes and allow erroneous citation references to remain in the BPM's Regulations. Inaction is not recommended as it is contrary to the best interests of the agency for advancing the mission of consumer protection and providing clear direction to providers seeking approval of CME from the Board.

NEXT STEPS

Should the Board approve the proposed draft language of recommended changes the Executive Officer will facilitate the proposed changes and initiate the regulatory process.

ATTACHMENTS

A. 16 CCR Sec. 1399.670 Approved Continuing Education Programs (No Changes)
16 CCR Sec. 1399.671 Criteria for Approval of Courses
16 CCR Sec. 1399.673 Survey of Need and Self-Assessment Required
16 CCR Sec. 1399.676 Audit and Sanctions for Noncompliance

B. Licensing Committee Report to BPM, Scrivener's Errors, March 6, 2015, (Agenda Item #17)

Prepared by: Kathleen Cooper, JD

Kathleen Cooper, JD
Legislative Analyst

Jason S. Campbell, JD
Executive Officer

FOR REFERENCE ONLY – NO PROPOSED CHANGES

1399.670 Approved Continuing Education Programs.

Only scientific courses relating directly to patient care under the following categories are approved for continuing medical education credit:

(a) Programs approved by the California Podiatric Medical Association of the American Podiatric Medical Association and their affiliated organizations.
(b) Programs approved for Category I credit of the American Medical Association, the California Medical Association, or their affiliated organizations, and programs approved by the American Osteopathic Association, or the California Osteopathic Association or their affiliated organizations.
(c) Programs offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine.
(d) Programs approved by a government agency.
(e) Completion of a podiatric residency program or clinical fellowship in a hospital approved under Section 1399.667 shall be credited for 50 hours of approved continuing education.
(f) Programs offered by other individuals, organizations and institutions approved by the board pursuant to Section 1399.671 below.
NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

HISTORY

1. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
2. Renumbering and amendment of former section 1399.671 to section 1399.670 and renumbering of former section 1399.670 to new section 1399.669 filed 3-8-84; effective thirtieth day thereafter (Register 84. No. 10).
3. Change without regulatory effect (Register 87, No 15).
4. Amendment of subsection (a), (b) and (d) filed 8-23-93; operative 9-22-93 (Register 93, No. 35)
5. Amendment of first paragraph filed 5-2-95; operative 6-1-95 (Register 95, No. 18)
6. Amendment of subsection (b), new subsection (d) and subsection relettering filed 7-24-2003; operative 8-23-2003 (Register 2003, No. 30)

ATTACHMENT A

1399.671. Criteria for Approval of Courses.

(a) Only those individuals, organizations or institutions seeking approval by the board of continuing education courses or programs under Section 1399.671~~0~~, subs. ~~(e)~~ (f) above, shall apply for such approval on a form provided by the board. Those individuals, organizations, and institutions approved under Sec. 1399.671~~0~~, subs. (a) through ~~(d)~~ (e) need not apply to the board for approval.

(b) Those individuals, organizations and institutions applying for approval of course or program offerings by the board under §1399.671~~0~~, subs. ~~(e)~~ (f), shall submit such documents and other evidence as may be needed by the board to determine compliance with the criteria set forth below, including but not limited to, catalogues, course descriptions, curricula plans and bulletins.

(c) Those courses or program referred to in §1399.671~~0~~, subs. ~~(e)~~ (f) shall meet the following criteria in order to be approved by the board on an hour-for-hour basis:

(1) Faculty – The course or program organizer(s) shall have a faculty appointment in public university or state college or in a private postsecondary educational institution authorized or approved pursuant to Section 94310 of the Education Code. The appointment may be in disciplines other than medicine but directly related to the practice of podiatric medicine or medicine. The curriculum vitae of all faculty members and all other organizers shall be kept on file.

(2) Rationale – The need for the course and how the need was determined shall be clearly stated and maintained on file.

(3) Course Content – The content of the course and how the need was determined shall be clearly stated and maintained on file.

(4) Educational Objectives – Each course or program shall clearly state educational objectives that can be realistically accomplished within the framework of the course.

(5) Method of Instruction – Teaching methods for each course or program shall be described, e.g., lecture, seminar, audio-visual simulation, etc.

(6) Attendance – Course organizers shall maintain a record of attendance of each participant.

Note: Authority and reference cited: Section 2496, Business and Professions Code:

History

1. Amendment of subsection (a) filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
2. Renumbering of former Section 1399.672 to Section 1399.671 and renumbering and amendment of former Section 1399.671 to Section 1399.670 filed 3-8-84; effective thirtieth day thereafter (Register 84, No 10).
3. Change without regulatory effect of subsections (a) – (c) (Register 87, No. 15).

§1399.673. Survey of Need and Self-Assessment Required.

In addition to any other requirements for approval, all approved individuals, organizations, institutions, and other continuing education providers listed in Section 1399.6740, with the exception of residency programs and clinical fellowships, may

(a) Utilize a survey of the podiatric medical community in order to determine those areas of clinical practice in which there is the greatest need in terms of demonstrated and expressed needs for additional information and instruction directly relevant to quality patient care and developments in the practice of podiatric medicine; and

(b) Provide a self-assessment evaluation in an objective format for each participant which pertains to the course content of the particular continuing education program. The evaluations shall be reviewed by the program providers to measure educational needs and to determine whether the objectives of the program have been met, and shall be made available to each participant for his or her review. Evaluations shall not be submitted to the board.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code

HISTORY

1. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
2. Change without regulatory effect of subsection (b) (Register 87, No. 15)

§1399.676. Audit and Sanctions for Noncompliance.

(a) Each doctor of podiatric medicine at the time of license renewal shall sign a statement under penalty of perjury that he or she has or has not complied with the requirements of this article.

(b) The board may audit once each year a random sample of doctors of podiatric medicine who have reported compliance with the requirements. No doctor of podiatric medicine shall be subject to audit more than once every two (2) years. Those licensees selected for audit shall be required to document their compliance with the requirements of this article.

(c) Any doctor of podiatric medicine who is found out of compliance shall be required to document compliance prior to the next biennial renewal. Such licensees shall document to the board of the completion of any deficient hours identified by audit. Any doctor of podiatric medicine who fails to make up the deficient hours, in addition to the hours required for the current renewal period, shall be ineligible for renewal of his or her license to practice podiatric medicine until such time as all the required hours of continuing education are completed and documented to the board in addition to the requirement of one of the continuing competence pathways.

(d) It shall constitute unprofessional conduct for any doctor of podiatric medicine to misrepresent compliance with the provisions of this article.

(e) Any doctor of podiatric medicine selected for audit who has been certified as complying with the continuing education requirements of this article by those organizations listed in Section 1399.671~~0~~, subsections (a), (b), (c), ~~and~~ (d) and (e) will not be required to submit documentation or records of continuing education coursework received, but the board may obtain such records directly from the certifying organizations or institutions.

(f) The board requires that each doctor of podiatric medicine retain records for a minimum of four (4) years of all continuing education programs attended which indicate the title of the course or program, the sponsoring organization or individual and the accrediting organization, if any.

NOTE: Authority and reference cited: Section 2496, Business and Professions Code.

HISTORY

1. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
2. Change without regulatory effect (Register 87, No. 15).
3. Amendment of subsections (a)-(c) filed 7-24-2003; operative 8-23-2003 (Register 2003, No. 30)

The reader need not look for changes in the following section, it is for reference only, no regulatory changes are proposed.

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LICENSING COMMITTEE
FEBRUARY 18, 2015

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SUBJECT: **BPM REGULATION SECTION 1399.671**

ACTION: **APPROVE RECOMMENDATION TO CORRECT SCRIVENER'S ERRORS CONTAINED IN SECTION 1399.671**

RECOMMENDATION

Direct the Executive Officer to draft a proposed regulatory amendment correcting a scrivener's error in Podiatric Medicine Regulation section 1399.671.

ISSUE

Section 1399.671 contains a drafting citation error which is confusing and references a non-existent regulatory subsection for instructing stakeholders regarding the necessary documentation required for approval of continuing medical education.

DISCUSSION

Board of Podiatric Medicine regulations sections 1399.670 and 1399.671 address the approved categories of Continuing Medical Education ("CME") and additional requirements for approval of CME by BPM, respectively. Together these regulations provide that program organizers offering educational courses or programs lacking previous CME credit approval from other recognized accrediting bodies may apply to BPM for CME course or program approval

Pursuant to section 1399.670, prospective applicants seeking BPM CME approval may apply to the Board by following the requirements prescribed in section 1399.671. However, when reviewing the requirements of section 1399.671—which further distinguishes which applicants are required to apply to the Board from those who are not required—readers discover that section 1399.671 refers to a non-existent subsection within itself (1399.671 subsection (e)) as authority rather than to the preceding regulation in 1399.670(e) instead.

Reading only the italicized language that follows immediately below (as a hypothetical reader seeking instruction of BPM requirements would do) highlights the logical perplexity of the regulatory guidance currently contained in the CME provisions. To wit:

Section 1399.670 provides in pertinent part:
Only [...] courses [...] under the following categories are approved for [CME] credit:

Including...

Section 1399.670(f) provides in pertinent part:
Programs offered by other[s] [...] approved by the board pursuant to Section 1399.671 below.

Section 1399.671(a) provides in pertinent part:
[...] those [...] seeking approval by the board [...] under ***Section 1399.671, subsection (e) above*** *[...] shall apply [...]*

And...

Section 1399.671(b)
Those [...] applying for approval [...] by the board under ***Section 1399.671, subsection (e)*** *[...] shall submit [documentation...]*

However, section 1399.671(e) does not exist in the current regulation nor is it found above section 1399.671(a) which referred to it.

Following the illustrative and guided reading above, it is quite clear that references to section 1399.671(e) were simply scrivener's errors that were clearly intended to cite 1399.670 subsection (e). This obvious and likely inadvertent reference causes the language to be somewhat confusing and inimical to proper implementation. Correcting these unworkable references from "Sec. 1399.671" to "Sec. 1399.670" will cause the language to properly inform and instruct all stakeholders relying on this language for guidance and permit a proper understanding of the clear intent of the regulations.

ALTERNATIVES

While the Board may choose to do nothing and permit the incorrect references to 1399.671(e) remain in its current form, such a course of action is not recommended as being in the best interests of the agency for advancing its mission of consumer protection.

NEXT STEPS

Should the Board elect to direct the Executive Officer to draft proposed regulatory amendments correcting the identified scrivener's errors, staff will begin the drafting process and return to committee in May for approval and initiation of the regulatory process.

ATTACHMENS

A. 16 CCR § 1399.670. Approved Continuing Education Programs.
B. 16 CCR § 1399.671. Criteria for Approval of Courses.

Prepared by: Kathleen Cooper, JD

Kathleen Cooper, JD
Legislative Analyst

Jason S. Campbell, JD
Executive Officer

§ 1399.670. Approved Continuing Education Programs.
16 CA ADC § 1399.670
BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations Currentness
Title 16. Professional and Vocational Regulations
Division 13.9. Board of Podiatric Medicine of the Medical Board of California
Article 3. Continuing Competence

16 CCR § 1399.670

§ 1399.670. Approved Continuing Education Programs.

Only scientific courses relating directly to patient care under the following categories are approved for continuing medical education credit:

(a) Programs approved by the California Podiatric Medical Association or the American Podiatric Medical Association and their affiliated organizations.

(b) Programs approved for Category 1 credit of the American Medical Association, the California Medical Association, or their affiliated organizations, and programs approved by the American Osteopathic Association, or the California Osteopathic Association or their affiliated organizations.

(c) Programs offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine.

(d) Programs approved by a government agency.

(e) Completion of a podiatric residency program or clinical fellowship in a hospital approved under Section 1399.667 shall be credited for 50 hours of approved continuing education.

(f) Programs offered by other individuals, organizations and institutions approved by the board pursuant to Section 1399.671 below.

Note: Authority and reference cited: Section 2496, Business and Professions Code.

HISTORY

1. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).

2. Renumbering and amendment of former section 1399.671 to section 1399.670 and renumbering of former section 1399.670 to new section 1399.669 filed 3-8-84; effective thirtieth day thereafter (Register 84, No. 10).

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4. Amendment of subsections (a), (b) and (d) filed 8-23-93; operative 9-22-93 (Register 93, No. 35).

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6. Amendment of subsection (b), new subsection (d) and subsection relettering filed 7-24-2003; operative 8-23-2003 (Register 2003, No. 30).

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16 CCR § 1399.670, 16 CA ADC § 1399.670

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§ 1399.671. Criteria for Approval of Courses.
16 CA ADC § 1399.671
BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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§ 1399.671. Criteria for Approval of Courses.

(a) Only those individuals, organizations or institutions seeking approval by the board of continuing education courses or programs under Section 1399.671, subs. (e), above, shall apply for such approval on a form provided by the board. Those individuals, organizations and institutions approved under Section 1399.671, subsections (a) through (d) need not apply to the board for approval.

(b) Those individuals, organizations and institutions applying for approval of course or program offerings by the board under Section 1399.671, subs. (e), shall submit such documents and other evidence as may be needed by the board to determine compliance with the criteria set forth below, including but not limited to, catalogues, course descriptions, curricula plans and bulletins.

(c) Those courses or programs referred to in Section 1399.671, subs. (e), shall meet the following criteria in order to be approved by the board on an hour-for-hour basis:

(1) Faculty -The course or program organizer(s) shall have a faculty appointment in a public university or state college or in a private postsecondary educational institution authorized or approved pursuant to Section 94310 of the Education Code. The appointment may be in disciplines other than medicine but directly related to the practice of podiatric medicine or medicine. The curriculum vitae of all faculty members and all other organizers shall be kept on file.

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(3) Course Content -The content of the course and how the need was determined shall be clearly stated and maintained on file.

(4) Educational Objectives -Each course or program shall clearly state educational objectives that can be realistically accomplished within the framework of the course.

(5) Method of Instruction -Teaching methods for each course or program shall be described, e.g., lecture, seminar, audio-visual simulation, etc.

(6) Attendance -Course organizers shall maintain a record of attendance of each participant.

Note: Authority and reference cited: Section 2496, Business and Professions Code.

HISTORY

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3. Change without regulatory effect of subsections (a)-(c) (Register 87, No. 15).

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16 CCR § 1399.671, 16 CA ADC § 1399.671

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