

LICENSING COMMITTEE  
MAY 11, 2016

**SUBJECT: DRAFT LANGUAGE CORRECTING SCRIVENER'S ERROR IN  
REGULATION SEC. 1399.672**

**7**

**ACTION: APPROVE PROPOSED DRAFT LANGUAGE CORRECTING  
SCRIVENER'S ERROR CONTAINED IN SECTION 1399.672 AND  
DIRECT THE EXECUTIVE OFFICER TO INITIATE THE REGULATORY  
PROCESS AND MAKE ANY NONSUBSTANTIVE CHANGES**

### **RECOMMENDATION**

Approve the proposed draft language correcting scrivener's error contained in 16 California Code of Regulations ("CCR"), Division 13.9, Sec.1399.672, and direct the Executive Officer to initiate the regulatory process and make necessary changes to implement the proposed regulatory correction to the Board of Podiatric Medicine ("BPM") Regulations.

### **ISSUE**

Current BPM Regulations concerning the approval of continuing education courses for acupuncture practice contains an incorrect citation that is confusing.

### **DISCUSSION**

The Board of Podiatric Medicine's section 1399.672, Continuing Education for Acupuncture Practice, addresses requirements for BPM licensees receiving continuing education in acupuncture and the practice of acupuncture as part of the practice of podiatric medicine. Subsection 1399.672(c) states "The course of instruction shall be obtained from one of the following: (1) College or school of podiatric medicine approved under Section 1399.661 and this reference needs to be changed to 1399.662.

The incorrect reference to section 1399.661, Oral Examination Appeals, is the result of earlier changes to BPM's regulations and the renumbering of sections without making changes to references to those sections. Section 1399.662, Approved Schools, is the correct reference and this change must be made to section 1399.672, Continuing Education for Acupuncture Practice for the regulations to properly inform stakeholders.

The following section is affected:

**Section 1399.672. Continuing Education for Acupuncture Practice**

Section 1399.672 ensures that providers and licensees understand the obligations of a BPM licensee in relation to the practice of acupuncture as part of the practice of podiatric medicine. By fixing the incorrect citation in Section 1399.672, the BPM is ensuring licensees have clarity when attempting to comply with BPM's requirements for engaging in acupuncture as part of the practice of podiatric medicine.

**ALTERNATIVES**

The Board may choose not to approve the proposed draft regulatory change and allow the erroneous citation reference 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 all those involved in the practice of podiatric medicine as it relates to acupuncture.

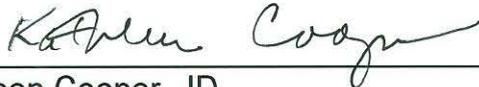
**NEXT STEPS**

Should the Board approve the proposed draft language of the recommended change, the Executive Officer will facilitate the proposed change and make any necessary changes to initiate the regulatory process.

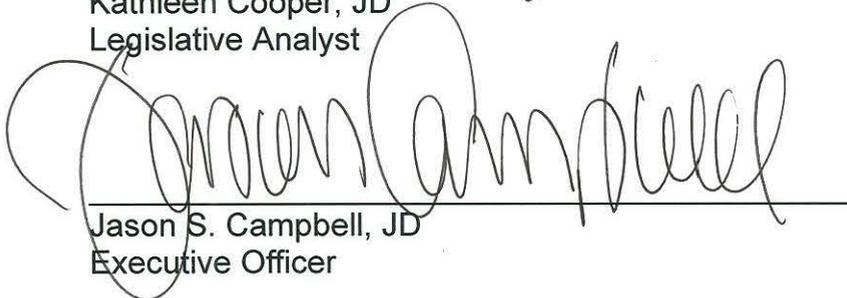
**ATTACHMENT**

- A. 16 CCR Sec. 1399.672 Continuing Education for Acupuncture Practice
- 16 CCR Sec. 1399.661 Oral Examination Appeals (No Changes)
- 16 CCR Sec. 1399.662 Criteria for Approval of Courses (No changes)

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United States Medical Licensing Examination and the National Board of Osteopathic Medical Examiners as equivalent in content to those administered by the National Board of Podiatric Medical Examiners.

NOTE: Authority cited: Section 2470, Business and Professions Code. Reference: Sections 482, 2475.1, 2479, 2480, 2486 and 2488, 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 subsections (b) and (c) (Register 87, No. 15).
3. Change without regulatory effect amending section heading filed 12-4-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 49).
4. Change without regulatory effect amending subsections (b) and (c) filed 2-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 9).
5. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
6. Amendment of article heading filed 11-12-2003; operative 12-12-2003 (Register 2003, No. 46).
7. New subsection (c) filed 4-17-2008; operative 5-17-2008 (Register 2008, No. 16).

### § 1399.661. Oral Examination Appeals.

(a) All appeals from a failure of the oral examination and for reconsideration of the applicant's examination scores shall be received in writing at the Board's office in Sacramento within 45 days from the date on the notification of failure of the examination.

(b) Such an appeal shall state the reasons for the appeal and shall be based upon one or more of the following grounds:

- (1) Significant procedural error in the examination process;
- (2) Evidence of adverse discrimination;
- (3) Evidence of substantial disadvantage to the examinee.

(c) An examinee may review only one time the tape recording of his or her examination prior to filing an appeal or, in the alternative, an examinee who has filed an appeal and received an adverse decision from the board may review only one time the tape recording of his or her examination. Such a review shall take place in the board's office in Sacramento at a time designated by the executive officer. The examinee may be accompanied by his or her legal representative. Such review shall be no longer than three (3) hours in length. Neither the examinee nor his or her legal representative may take notes of the recorded examination.

(d) The review of the oral examination shall be conducted by one or more board members, or the board's designee, and their findings shall be subject to the approval of the board in its discretion.

(e) All oral examination materials shall be retained by the board at the board's office in Sacramento for a period of two (2) years after the date of the examination.

(f) Nothing in this section shall be construed to deprive an applicant of his or her rights of appeal as afforded by other provisions of law.

NOTE: Authority cited: Section 2470, Business and Professions Code. Reference: Sections 2480, 2486, 2487, Business and Professions Code; Section 12944, Government Code.

#### HISTORY

1. New section filed 4-8-87; effective thirtieth day thereafter (Register 87, No. 15). For history of former section, see Register 83, No. 32 and 79, No. 49.
2. Editorial correction of subsection (c) (Register 95, No. 16).

### § 1399.662. Approved Schools.

(a) Colleges of podiatric medicine accredited by the Council on Podiatric Medical Education may 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.

#### HISTORY

1. Renumbering of section 1366.1 to section 1399.662 filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).
2. Repealer and new section filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
3. Change without regulatory effect (Register 87, No. 15).

4. Change without regulatory effect amending subsection (a) filed 1-6-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).
5. Amendment of subsection (a) and NOTE and repealer and new subsection (b) filed 12-11-95; operative 1-10-96 (Register 95, No. 50).
6. Amendment of subsection (a) filed 11-12-2003; operative 12-12-2003 (Register 2003, No. 46).

### § 1399.663. Review of Specialty Board Applications; Processing Time.

(a) Within 30 working days of receipt of an application for specialty board approval, the Board of Podiatric Medicine (BPM) shall inform the applicant in writing that it is either complete and accepted for filing and referral to a podiatric medical consultant selected by BPM or that it is deficient and what specific information or documentation is required to complete the application.

(b) Within 918 calendar days from the date of filing of a completed application, BPM shall inform the applicant in writing of its decision regarding the applicant's approval as a specialty board.

NOTE: Authority cited: Sections 651 and 2470, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 651 and 2470, Business and Professions Code; and Section 15376, Government Code.

#### HISTORY

1. New section filed 6-27-2000; operative 7-27-2000 (Register 2000, No. 26). For prior history, see Register 97, No. 49.

### § 1399.664. Review of National Board Applications; Processing Time. [Repealed]

NOTE: Authority cited: Section 2470, Business and Professions Code; and Section 15376, Government Code. Reference: Section 2480, Business and Professions Code; Section 15376, Government Code.

#### HISTORY

1. New section filed 10-3-83; effective thirtieth day thereafter (Register 83, No. 41).
2. Change without regulatory effect (Register 87, No. 15).
3. Editorial correction of subsection (b) (Register 95, No. 16).
4. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
5. Change without regulatory effect repealing section filed 6-11-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 24).

### § 1399.665. Review of Reciprocity Applications; Processing Time. [Repealed]

NOTE: Authority cited: Section 2470, Business and Professions Code; and Section 15376, Government Code. Reference: Section 2480, Business and Professions Code; Section 15376, Government Code.

#### HISTORY

1. New section filed 10-3-83; effective thirtieth day thereafter (Register 83, No. 41).
2. Change without regulatory effect (Register 87, No. 15).
3. Change without regulatory effect repealing section filed 12-4-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 49).

### § 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 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.

#### HISTORY

1. Renumbering of section 1366.9 to section 1399.666 filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).
2. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
3. Change without regulatory effect amending section filed 1-6-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).
4. Amendment of section and NOTE filed 12-11-95; operative 1-10-96 (Register 95, No. 50).
5. Amendment filed 11-12-2003; operative 12-12-2003 (Register 2003, No. 46).

### § 1399.667. Postgraduate Medical Education.

Podiatric medical residencies approved by the board in accordance with Section 2484 of the code shall be those that meet the minimum requirements set by the Council on Podiatric Medical Education, 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 seventy-five per cent pass rate for residents taking the Part III exam of the National Board of Podiatric Medical Examiners 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 per cent pass rate, the board may grant the program approval if it determines after review of reports submitted by the program 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: Sections 2475, 2475.3 and 2484, Business and Professions Code.

#### HISTORY

1. Renumbering of Section 1366.8 to Section 1399.667 filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).
2. Amendment filed 8-4-83; effective thirtieth day thereafter (Register 83, No. 32).
3. Change without regulatory effect (Register 87, No. 15).
4. Amendment of section and NOTE filed 12-11-95; operative 1-10-96 (Register 95, No. 50).
5. Amendment of first paragraph, new subsection (b) and amendment of NOTE filed 8-21-98; operative 9-20-98 (Register 98, No. 34).
6. Amendment of first paragraph filed 11-7-2000; operative 12-7-2000 (Register 2000, No. 45).
7. Amendment of section heading and section filed 11-12-2003; operative 12-12-2003 (Register 2003, No. 46).

#### § 1399.668. 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.

#### HISTORY

1. New section filed 3-15-83; effective thirtieth day thereafter (Register 83, No. 12).
2. Change without regulatory effect (Register 87, No. 15).
3. Repealer and new section heading filed 11-12-2003; operative 12-12-2003 (Register 2003, No. 46).

#### § 1399.668.1. Certification for Ankle Surgery.

##### [Renumbered]

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2473, Business and Professions Code.

#### HISTORY

1. New section filed 5-25-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 21).
2. Renumbering of Section 1399.668.1 to Section 1399.689 filed 12-20-84; effective thirtieth day thereafter (Register 84, No. 51).

## Article 3. Continuing Competence

#### § 1399.669. Continuing Competence Required.

(a) Each doctor of podiatric medicine is required to complete 50 hours of approved continuing education, including a minimum of 12 hours in subjects related to the lower extremity muscular skeletal system, and one of the continuing competence pathways specified in Business and Professions Code Section 2496(a) through (h), during each two (2) year renewal period.

(b) Each doctor of podiatric medicine renewing his or her license under the provisions of Section 2423 of the code may be required to submit proof satisfactory to the board of compliance with the provisions of this article every two (2) years.

(c) Each doctor of podiatric medicine in order to renew his or her license at each renewal period shall report compliance with the provisions of this article by signing and returning the declaration contained in the license renewal application.

(d) Any doctor of podiatric medicine who cannot comply with the provisions of this article during a two (2) year period shall be ineligible for the next renewal of his or her license unless such licensee applies for and obtains a waiver pursuant to Section 1399.678 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 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 of subsection (b) (Register 87, No. 15).
4. Amendment of subsection (a) filed 8-23-93; operative 9-22-93 (Register 93, No. 35).
5. Amendment of article heading, section heading and section filed 7-24-2003; operative 8-23-2003 (Register 2003, No. 30).

#### § 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).
3. Change without regulatory effect (Register 87, No. 15).
4. Amendment of subsections (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).

**§ 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 1399.670, subdivision (f), shall apply for such approval on a form provided by the board. Those individuals, organizations and institutions approved under Section 1399.670, subdivisions (a) through (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 Section 1399.670, subdivision (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 programs referred to in Section 1399.670, subdivision (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 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.

(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 cited: Section 2496, Business and Professions Code. Reference: 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).
4. Change without regulatory effect amending subsections (a)-(c) and NOTE filed 9-3-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 36).

**§ 1399.672. Continuing Education for Acupuncture Practice.**

(a) A doctor of podiatric medicine may engage in the practice of acupuncture as part of the practice of podiatric medicine if he or she has completed a course of instruction as provided in this section.

(b) The course of instruction shall have a minimum of 25 hours of training and include the following subject areas:

(1) Survey of traditional Oriental medicine: "Traditional Oriental Medicine" is the theory and practice of traditional diagnostic and therapeutic procedures. It is the basis of oriental diagnosis and encompasses the differentiation of syndromes according to symptom complexes of blood, chi and humor, and classical and contemporary literature on acupuncture and Chinese medicine;

(2) Acupuncture points of the lower extremities;

(3) Acupuncture techniques.

(c) The course of instruction shall be obtained from one of the following:

(1) College or school of podiatric medicine approved under Section 1399.661;

(2) A college or school of acupuncture approved by the Acupuncture Examining Committee;

(3) A program approved under Section 1399.670.

(d) A course of instruction in acupuncture which meets the requirements of this section shall be credited toward required hours of continuing education.

NOTE: Authority cited: Section 2496, Business and Professions Code. Reference: Sections 2496 and 4947, Business and Professions Code.

**HISTORY**

1. Renumbering of former Section 1399.672 to Section 1399.671 and new Section 1399.672 filed 3-8-84; effective thirtieth day thereafter (Register 84, No. 10).

**§ 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 1399.670, 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 cited: Section 2496, Business and Professions Code. Reference: 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).
3. Change without regulatory effect amending first paragraph and NOTE filed 9-3-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 36).

**§ 1399.674. Withdrawal of Approval; Appeal Procedure.**

(a) Any individual, organization, institution, or other continuing education provider approved by the board in Section 1399.671 may have its approval withdrawn by the board for failure to comply with the provisions of this article.

(b) Any provider who is denied approval by the board as a continuing education provider or any continuing education provider whose approval is withdrawn by the board, or any doctor of podiatric medicine who is denied credit for continuing education coursework or whose license to practice podiatric medicine is not renewed after failure to comply with these continuing education rules may appeal such denial, withdrawal or suspension to the board. The board in its discretion may consider such an appeal with or without a hearing.

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

**HISTORY**

1. Change without regulatory effect (Register 87, No. 15).

**§ 1399.675. Continuing Competence Course.**

(a) Extended courses of study approved by the board pursuant to Section 2496(g) of the code shall be in addition and supplementary to those taken to meet the continuing education requirement.

(b) Such courses shall provide didactic and clinical training that refreshes and updates knowledge and skills in common podiatric medical and surgical procedures.

(c) Such courses shall examine and test each candidate prior to graduation and certify graduation directly to the board.

(d) The application fee for board approval of each course shall be that specified in Section 2499.5(m) of the Business and Professions Code.

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

**HISTORY**

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