

## 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 Courtyard by Marriott – Sherman Oaks, 15433 Ventura Blvd., Sherman Oaks, CA 91403, at 9:00 a.m., on October 19, 2007. Written comments must be received by the Board at its office not later than 5:00 p.m. on October 17, 2007, 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 2470 of the Business and Professions Code; and to implement, interpret or make specific sections 2475.1, 2486 and 2488 of the Business and Professions 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

#### **Amend Section 1399.660 - Applications, Certificates.**

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 necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

The proposed amendment to regulation 1399.660 will enumerate the exams from which the Board of Podiatric Medicine will accept passing scores, should such scores be submitted on behalf of applicants for certificate to practice podiatric medicine. This amendment will include the United States Medical Licensing Examination (USMLE) and the National Board of Osteopathic Medical Examination (NBOME) as equivalent to exams of the National Board of Podiatric Medical Examiners (NBPME). Amending this regulation to include equivalent examinations will provide options and additional opportunities for candidates to achieve qualifying test scores, without imposing additional requirements.

### 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.

Impact on Jobs/New Businesses:

The Board of Podiatric Medicine has determined that this regulatory proposal will not have any 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 of Podiatric Medicine 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 of Podiatric Medicine has determined that the proposed regulations would not affect small businesses. This amends the regulation to include equivalent examinations for licensure, providing options but not additional requirements.

CONSIDERATION OF ALTERNATIVES

The Board of Podiatric Medicine must determine that no reasonable alternative is considered to the regulation 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 of Podiatric Medicine 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, Suite 8, Sacramento, California 95825-3229.

### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is 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 Cook  
Address: 1420 Howe Avenue, Suite 8  
Sacramento, CA 95825-3229  
Telephone No.: 916-263-0315  
Fax No.: 916-263-2651  
E-Mail Address: Kathleen\_Cook@dca.ca.gov

The backup contact person is:

Name: Jim Rathlesberger  
Address: 1420 Howe Avenue, Suite 8  
Sacramento, CA 95825-3229  
Telephone No.: 916-263-2650  
Fax No.: 916-263-2651  
E-Mail Address: Jim\_Rathlesberger@dca.ca.gov

Website Access: Material regarding this proposal can be found at <http://bpm.ca.gov/lawsregs/index.htm>.

BOARD OF PODIATRIC MEDICINE

**APPLICATIONS, CERTIFICATES**

SPECIFIC LANGUAGE

Amend section 1399.660 of Division 13.9 of Title 16 of the California Code of Regulation to read as follows:

**1399.660. Applications, Certificates.**

(a) Applications for certificates to practice podiatric medicine and the form and endorsement of such certificates are subject to and administered according to the provisions of Article 2 (Sections 1307, 1308, 1309), Article 9 (Sections 1331-1332) and Article 10 (Section 1335), of the Medical Practice Regulations (Division 13, Chapter 1).

(b) The parts of the examination administered by the National Board of Podiatric Medical Examiners required by the board pursuant to Section 2486 (b) of the Code are Parts I, II and III.

(c) Pursuant to Sections 2475.1, 2486 and 2488 of the Code, the board recognizes examinations of the United States Medical Licensing Examination as equivalent in content to the examinations administered by the National Board of Podiatric Medical Examiners of the United States.

**NOTE:** Authority cited: Section 2470, Business and Professions Code. Reference: Sections 482, 2475.1, 2479 ~~and~~, 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).

## BOARD OF PODIATRIC MEDICINE

### INITIAL STATEMENT OF REASONS

Hearing Date: October 19, 2007

**Subject Matter of Proposed Regulations:** Applications, Certificates.

**Section(s) Affected:** Amend Section 1399.660 of Division 13.9 of Title 16, Applications, Certificates.

Specific Purpose of each adoption, amendment, or repeal:

The specific purpose for which the Board of Podiatric Medicine (BPM) is proposing to amend regulation 1399.660 is to implement the statutes of Business & Professions Code sections 2475.1, 2479, 2486 and 2488. California law requires applicants to pass Part I, II and III exams of the National Board of Podiatric Medical Examiners (NBPME) or "a written examination that is recognized by the board to be the equivalent." The Board of Podiatric Medicine proposes to add the United States Medical Licensing Examination (USMLE) and the National Board of Osteopathic Medical Examination (NBOME) to regulation 1399.660 as examinations meeting the equivalency test. Amending this regulation will provide clarity for applicants and additional opportunities for candidates to achieve qualifying test scores.

Factual Basis/Rationale

Under sections 2475.1, 2479, 2486 and 2488 of the Business and Professions code the Board of Podiatric Medicine has statutory authority to accept scores from a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners.

Section 139 of the Business and Profession Code and the Department of Consumer Affairs policies require licensing exams to test for entry-level competence. Licensing exams are additionally to be based on occupational analyses and exam validation studies such as the examination administered by the National Board of Podiatric Medical Examiners (NBPME). The United States Medical Licensing Examiners (USMLE) and the National Board of Osteopathic Medical Examiners (NBOME) examinations meet the criteria.

The proposed amendment to regulation 1399.660 will enumerate the exams from which the Board of Podiatric Medicine will accept passing scores, should such scores be submitted on behalf of applicants for certificate to practice podiatric medicine from the USMLE and the NBOME testing agencies. BPM will by law continue to accept National Board of Podiatric Medical Examiner scores even if it begins accepting USMLE and NBOME tests as well. Applicants for the Doctor of Podiatric Medicine (DPM) license would still be required to graduate from an approved podiatric medical school and complete approved graduate podiatric medical education pursuant to the law.

The school curriculum required for licensure applicants for doctors of podiatric medicine (DPMs), medical doctors (MDs) and doctors of osteopathic medicine (DOs) are similar in content, see Business and Professions code section 2089 for MD's and DO's, and section 2483 for DPM's.

The Board of Podiatric Medicine is required by section 139 to certify annually that the exams accepted by the Board comply with State law. The Medical Board has been accepting and certifying the USMLE and the Osteopathic Medical Board has been accepting and certifying the NBOME for compliance with section 139.

### **Underlying Data**

Technical, theoretical or empirical studies or reports relied upon (if any):  
None

### **Business Impact**

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

1. The Board of Podiatric Medicine is adding equivalent examinations to the list of acceptable examinations for licensure, adding options but not additional requirements.

### **Specific Technologies or Equipment**

This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

1. The USMLE and the NBOME examinations are administered through the use of computerized testing equipment as is the NBPME.

### **Consideration of Alternatives**

No reasonable alternative to the regulation 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.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. There are no other known physician-licensing exams, which would be comparable and equivalent.
2. The state does not have sufficient resources or numbers of applicants to create and administer its own state examination.