

## **Title 16, PHYSICAL THERAPY BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California 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 Kremen Education Building, Room 140, California State University, Fresno, 5241 North Maple Avenue, Fresno CA, 93740 on Thursday, May 1, 2008. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 28, 2008 or must be received at the hearing. The Physical Therapy Board of California, 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 section 2615 of the Business and Professions Code to implement, interpret or make specific Sections 2660, 2660.1, 2661 and 2661.5 of said Code and Section 11425.50(e), Government Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(1) Amend section 1399.15

Senate Bill 523 (Stats. 1995, Chapter 938; Kopp) provides that a penalty in any administrative disciplinary action may not be based on a guideline unless it has been adopted as a regulation in accordance with the Administrative Procedures Act. (Government Code Section 11425.50(e); Operative 07/01/97 [Stats. 1995, Ch. 938, Sec. 98])

On January 31, 1997 the Board adopted the document entitled "Disciplinary Guidelines" and subsequently incorporated the guidelines by reference into regulation later that year. On May 13, 2005, the Board re titled the guideline "Model Guidelines for Issuing Citations and Imposing Discipline" by regulation and incorporated them by reference.

The Model Guidelines for Issuing Citations and Imposing Discipline (Model Guidelines) is a manual addressing public protection while enabling the licensee to practice their profession in a controlled environment.

The Board has since produced the 3rd edition of the Model Guidelines, to more accurately reflect its purpose and intended use by the public, those subject to the issuance of a citation and fine, as well as those involved in the disciplinary process: Administrative Law Judges, Deputy Attorneys General, members of the Board who review proposed decisions and stipulations and make final decisions, its Executive Officer and staff, and respondents and their counsel. The Board proposes to incorporate the 3rd edition of the Model Guidelines into regulation by reference, which includes additional violations and modifications of the penalties to be consistent and appropriate to the practice of physical therapy. Additionally, there have been changes to the physical therapy laws and regulations that are not reflected in the May 13, 2005 publication of the guidelines thereby hindering the Board's ability to effectively impose an action which would enable a licensee to continue to practice while effectively protecting the public.

A copy of the text of the Model Guidelines is available from the Board upon request.

### 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

- 1) SB 523 (Kopp) Stats. 1995, Ch. 938
- 2) Physical Therapy Board of California's "Disciplinary Guidelines" adopted May 13, 2005.

Impact on Jobs/New Businesses: None

The Physical Therapy Board of California has determined that this regulatory proposal will not have a significant 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 Private Persons or Entities:

The Physical Therapy 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses because it only affects individual licensees.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on 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 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 the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825 until March 14, 2008. On March 14, 2008 the Board office will move to 2005 Evergreen St., Suite 1350, Sacramento, CA 95815. Please direct your request to the new address after that date.

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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Elsa Ybarra  
**Before** March 14, 2008 -  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
**After** March 14, 2008  
2005 Evergreen Street, Suite 1350  
Sacramento, CA 95815  
(916) 561-8262  
(916) 263-2560 – Fax Number  
[Elsa\\_Ybarra@dca.ca.gov](mailto:Elsa_Ybarra@dca.ca.gov)

The backup contact person is:

Rebecca Marco  
**Before** March 14, 2008 -  
1418 Howe Avenue, Suite 16  
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[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Elsa Ybarra at (916) 561-8262.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).