

BOARD OF PODIATRIC MEDICINE
INITIAL STATEMENT OF REASONS

Hearing Date: June 1, 2007.

Subject Matter of Proposed Regulations:

Citations and Fines; Contest of Citations.

Section(s) Affected: Title 16 of the California Code of Regulations

Amend Sections 1399.696 and 1399.697

Specific Purpose of each adoption, amendment, or repeal:

Amend Section 1399.696:

The specific purpose for which the Board of Podiatric Medicine is proposing an amendment to this regulation is to add two violations to its list of citable offenses and increase the maximum fine amount.

- (a) Add Business and Professions Code Section 2225(d) to its list of citable offenses;
- (b) add under Section 1399.696 the authority to issue a citation to a licensee for a violation of a term or condition contained in the decision placing the licensee on probation;
- (c) increase the maximum fine amount from \$2,500.00 to \$5,000.00, per citation if one or more of the following circumstances apply.
 - 1. The cited person has received two or more citations for the same or similar violations;
 - 2. The citation involves multiple violations that demonstrate a willful disregard for the law.

Amend Section 1399.697:

Change section 1399.697(b), which currently references subsection (e) of Section 1399.696, to read subsection (f) of Section 1399.696.

Factual Basis/Rationale

Legislation enacted in 2003, chapter 788, (SB362), amended subsection (b)(3) of Section 125.9 of the Business and Professions code. This legislation increased the amount of an administrative fine that a board may charge from a maximum of \$2,500 to a maximum of \$5,000. This will amend the board regulation section 1399.696 to conform to subsection (b)(3) of Section 125.9 of the code, changing the maximum amount of the administrative fine assessed by the board from \$2,500 to \$5,000.

Section 125.9(b)(3) states:

125.9(b)(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

Amend Section 1399.697 subsection (b), to refer to the subsection (f) and not (e) since this section has been changed in 1399.696.

Underlying Data

None

Business Impact

This regulation will not have a significant adverse economic impact on businesses.

Specific Technologies or Equipment

This regulation amendment does not mandate the use of specific technology or equipment as it relates to the enforcement of citable offenses and the increase of the maximum fine amount.

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.