

## BOARD OF PODIATRIC MEDICINE

### INITIAL STATEMENT OF REASONS

Hearing Date: May 31, 2016

Subject Matter of Proposed Regulations: Oral Argument

The sections affected by these regulations are 16 California Code of Regulations (“CCR”), Division 13.9, Board of Podiatric Medicine (“BPM”) of the Medical Board of California. (“MBC”)

#### Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

The purpose of the adoption of section 1399.730 is to comply with section 2336 of the Business and Professions Code, which requires BPM to adopt rules governing the conduct of oral arguments following nonadoption of a proposed decision.

Section 1399.731 related to amicus briefs provides procedures for non-party interested persons to submit an amicus curiae brief when the board has nonadopted a proposed decision or has granted a petition for reconsideration of a decision. This section establishes regulations for procedures used to evaluate and accept amicus curiae briefs allowed by Government Code section 11440.50.

Section 1399.732 provides clear procedures for the submission of written arguments allowed by Government Code section 11517.

2. Anticipated benefits from this regulatory action:

There will be benefits to all stakeholders if BPM is compliant with the legislative mandate above, and it will assist in orderly presentations similar to those enacted by MBC, which has already enacted regulations to comply with section 2336 of the Business and Professions Code. BPM’s proposed language tracks language in the regulations that MBC adopted in Title 16, Division 2, Article 8, relating to the conduct of “Oral Arguments” and “Amicus Briefs,” and “Written Arguments Submitted in Response to an Order of Nonadoption or Reconsideration.” BPM works closely with MBC regarding enforcement.

#### Factual Basis/Rationale

This rulemaking actions seeks to add Division 13.9 of Title 16 of CCR by adopting Article 13, Sections 1399.730, 1300.731, and 1399.732, to provide provisions for the conduct of oral arguments following the nonadoption of a proposed decision as required

by section 2336 of the California Business and Professions Code. Additionally, the regulations relating to amicus briefs, and the written arguments submitted in response to an order of non-adoption or reconsideration will provide needed guidance to future stakeholders presenting evidentiary matters before BPM.

MBC has enacted regulations to comply with section 2336 by adopting 16 CCR sections 1364.30, 1364.31, and 1364.32. BPM has tracked the language used by MBC and merely changing the words “panel” to “board” and “panel members” to “board members.”

MBC’s aforesaid regulations have been used for years and outline a fair and transparent procedure for stakeholders. Licensees of BPM receive their licenses from MBC. MBC handles BPM’s intake and desk investigations. MBC shares communications with the Attorney General’s Office and investigative staff, and BPM follows the vertical enforcement procedures of MBC. It is necessary to update our procedures in line with MBC’s as it would be confusing to have a separate set of procedural rules for doctors of podiatric medicine.

#### Underlying Data

None.

#### Business Impact

This regulation will not have a significant adverse economic impact on businesses. The regulation will impact administrative and procedural rules only for Oral Arguments, Amicus Curie Briefs, and Written Arguments Submitted in Response to an Order of Nonadoption or Reconsideration. There is no anticipated financial impact on any business or commercial entity. There are no additional requirements that will have a financial impact on any of the stakeholders involved.

#### Economic Impact Assessment

These regulations will require stakeholders involved in Oral Arguments, Amicus Curie Briefs, and Written Arguments Submitted in Response to an Order of Nonadoption or Reconsideration to follow procedures that will guide participants in the process to know what specific rules must be followed. These are strictly procedural in nature and will not impact the financial aspects of any of the stakeholders involved in the process. Additionally, there are no added costs or fees, and no mandated requirements that will impact businesses, entities, or individuals in a financial sense. These rules will not cause any stakeholder, entity or individual to incur additional financial burdens, or require that additional professional involvement be purchased or hired. There is no indication that additional costs will be incurred by any of the stakeholders involved. These regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because there will

be no economic impact.

- It will not create new business or eliminate existing businesses within the State of California because there will be no economic impact.
- It will not affect the expansion of businesses currently doing business within the State of California because there will be no economic impact.
- This regulatory proposal benefits the health and welfare of California residents because there will be mandated rules for the conduct of appeals to the Board.
- This regulatory proposal does not affect worker safety because there will be no impact on workers.
- This regulatory proposal does not affect the state's environment because there will be no impact on the environment.

#### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

#### Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

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

Alternative No. 1: Do not pursue regulations. This alternative was rejected because BPM has been mandated by Section 2336 of the Business and Professions Code to adopt such regulations.