

## PHYSICIAN ASSISTANT COMMITTEE

### INITIAL STATEMENT OF REASONS

Hearing Date: 18 February 2010

Subject Matter of Proposed Regulations:

Section Affected: 1399.557.

Specific Purpose of each adoption, amendment, or repeal:

Article 6.5 of the Business and Professions Code establishes the Diversion of Impaired Physician Assistants Program. The committee's drug and alcohol diversion program was legislatively mandated by statute in 1988 (AB 4510, Chapter 385). The program is currently contracted to Maximus.

Business and Professions Code Section 3534.8 authorizes the Physician Assistant Committee to charge a fee for participation in the program. All program participants are currently assessed a \$100.00 monthly fee for participation in the program.

This proposal would formally require that licensees mandated to participate in the diversion program, as a condition of probation, pay the full amount of the monthly participation fee charged by the contractor which is \$272.00. Licensees voluntarily enrolled in the program would be required to pay 75% of the monthly participation fee charged by the contractor. Per the contract in place with Maximus, the cost per participant will increase 3% on 1 July of each successive year.

This proposal would also require the program participants to pay their monthly participation fee directly to the diversion program contractor. This proposal would only apply to licensees who enter or re-enter the program on or after the effective date of this regulatory proposal.

Factual Basis/Rationale

Factual basis for determination that each proposed change is necessary:

When the program was created in 1990 the committee absorbed all fees associated with a licensee's participation in the program. Due to the increase in the numbers of participants enrolled in the program, the committee began in July 2004 assessing a \$100 monthly participation fee.

The committee is proposing to require that licensees mandated to participate in the program, as a condition of probation, pay the full amount of the monthly participation fee charged by the contractor. Voluntary participants would be required to pay 75% of the monthly participation fee.

The contract was awarded from 1 January 2010 to 31 December 2012 with the option of two additional one year periods.

The committee believes that participants be assessed a fee for participation in the program as it reinforces accountability and responsibility for their recovery. Each month the participant is reminded, via the payment of the fee, the importance of their participation in their recovery and ultimately fully regaining their careers as physician assistants free of chemical dependency.

The committee determined that participants mandated to participate in the program as a condition of probation should be assessed the full amount due to the disciplinary nature of their participation. The committee currently requires licensees who have been disciplined to pay the cost of investigation and probation monitoring. Likewise, probation diversion program participants should pay for participation in the program, as well.

As an incentive for self-referral to the program for licensees who have chemical dependency issues, the committee determined that reducing the participation fee and requiring a payment of 75% of the full amount would be appropriate. The reduced fee would, hopefully, encourage self-referral and address their chemical dependency issues early in their addiction prior to it escalating to a disciplinary matter.

The committee also believes that the fiscal burden of providing the diversion program should not fall on licensees not participating in the program. Participants should, as part of their recovery, pay the costs associated with the providing the program.

This proposal would also formalize that participants pay any other costs associated with the diversion program, such as biological fluid test collection and sampling fees, support group fees, and evaluations directly to the contractor. This is specific to the terms of the contract between the Physician Assistant Committee and Maximus which requires participants to pay these fees. Participants acknowledge they are responsible for payment of these fees via their Recovery Contract with Maximus.

The proposal would also require that the participants pay their monthly participation fee directly to the diversion program contractor. Again, this change is per specific terms of the contract with Maximus which states that the contractor shall invoice the participants monthly, collect, and account for the participation fee from the participant.

This proposal would only apply to licensees who will enter or re-enter the program on or after the effective date of this regulatory proposal. The committee determined that current participants who participate either mandated by a disciplinary order or self-referred have already formally agreed per their diversion Recovery Contract to pay the current \$100 participation fee.

### Underlying Data

Technical, theoretical or empirical studies or reports relied upon: None.

This regulation will not have a significant adverse economic impact on businesses because it only affects individual licensees who would be participating in the committee's drug and alcohol diversion program.

### Specific Technologies or Equipment

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

### 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. Not adopt the regulation and continue assessing a \$100 participation fee to all participants in the committee's drug and alcohol diversion program. This alternative was rejected because the committee believes that, as part of their recovery, the participants should be required to pay the costs associated with providing the program.
2. Adopt the regulation. The committee determined that this alternative is the most feasible because the proposed regulatory change would place the burden of providing the diversion program on the participants who will be taking advantage of the services provided by the program.

