



California Medical Association

Physicians dedicated to the health of Californians

REGULATIONS QUICK LIST

CMA's Regulations Quick List provides a summary and current status of significant regulations followed by CMA's Center for Medical & Regulatory Policy. The Quick List is circulated regularly on a monthly basis or more frequently, as needed. For more information on a specific regulatory package, please contact the appropriate staff member identified at the end of each regulation summary by e-mail or by calling 916/444-5532.

FEBRUARY 10, 2010

CMA Regulations of Interest	Status	Staff
<p><u>SCOPE OF PRACTICE IN LICENSED HEALTH FACILITIES</u> (California Department of Public Health, CDPH)</p> <p>This regulatory package proposes to dramatically increase the scope of practice for a variety of licensed health care providers in hospital settings. These regulations would allow non-physician practitioners to admit patients, perform medical examinations, place patients in restraints, complete medical records, coordinate care, and order transfers. In an earlier iteration, these regulations also contained provisions that would have defeated the right of medical staff self-governance, but which were removed after strong opposition from CMA. On October 14, 2009, the Office of Administrative Law (OAL) disapproved the regulations, thus beginning the 120 day period for CDPH to submit a revised package. CMA continues to vigorously oppose these regulations.</p>	<p>Noticed: 7/11/08. Disapproved by OAL 10/14/09, Second 15-day comment period: 11/20/09-12/7/09, CMA comments submitted 12/7/09. Revisions must be sent to OAL by 2/11/10.</p> <p>Expected Decision: 3/5/10.</p>	<p>Veronica Ramirez</p>
<p><u>MANIPULATION UNDER ANESTHESIA</u> (Board of Chiropractic Examiners)</p> <p>These regulations propose to allow chiropractors to perform manipulation on a patient who is under anesthesia administered by a physician, surgeon or other authorized health care provider. CMA remains concerned that Manipulation Under Anesthesia is outside the lawful scope of chiropractic practice and will continue to urge the Board to withdraw this regulatory proposal.</p>	<p>Noticed: 1/12/09. Fourth 15-day comment period: 10/28/09-11/12/09, CMA comments submitted 11/12/09. Sent to OAL.</p> <p>Expected Decision: 2/16/10.</p>	<p>Veronica Ramirez</p>
<p><u>PHYSICIAN OFFICE SIGNAGE</u> (Medical Board of California)</p> <p>These regulations would require physicians to post a "Notice to Consumers" that the Medical Board regulates physicians and to provide the phone number and website for the Medical Board. CMA is concerned that this requirement will be an unnecessary administrative burden on physicians who are already required to post their medical license or wear a nametag indicating their licensing status. CMA's amendment requests have been rejected by the Medical Board, but a final decision by the Office of Administrative Law is still pending.</p>	<p>Noticed: 6/5/09. CMA comments submitted 7/15/09. Final Statement of Reasons issued 7/24/09. Sent to OAL.</p> <p>Expected Decision: 6/5/10.</p>	<p>Yvonne Choong</p>
<p><u>RESCISSION AND UNDERWRITING</u> (Department of Insurance, DOI)</p> <p>These regulations would provide regulatory protections for consumers in the event a health insurer attempts to rescind their individual health coverage. It would specifically require health insurers to prove that the consumer "knowingly" misrepresented facts. CMA is working with DOI to address the issue of having an independent third party review all proposed rescission before it gets finalized.</p>	<p>Noticed: 6/5/09. CMA comments submitted 7/14/09.</p> <p>Expected Decision: 6/5/10.</p>	<p>Armand Feliciano</p>
<p><u>CHANGES TO CME REQUIREMENTS</u> (Physician Assistant Committee)</p> <p>CMA took no issue with the intent of this regulations package. However, in the original language, physician assistants were referred to as possessing a "license to practice medicine," which CMA opposed through written comments. The Physician Assistant Committee has since removed language referring to such a license.</p>	<p>Noticed: 6/26/09. CMA comments submitted 8/13/09.</p> <p>Expected Decision: 6/26/10.</p>	<p>Veronica Ramirez</p>
<p><u>DISCIPLINARY GUIDELINES</u> (Medical Board of California)</p> <p>These regulations were issued to amend the Manual of Model Disciplinary Orders</p>	<p>Noticed: 9/14/09. CMA comments submitted</p>	<p>Yvonne Choong</p>

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<p>and Disciplinary Guidelines to reflect changes in law, clarify existing language, and make technical changes to reflect the current probationary environment. CMA submitted comments offering amendments to sections related to the use of alcohol and controlled substances because the original language would have allowed for the Medical Board to order a cessation of medical practice should a licensee have a positive biological fluid test for certain substances or fail to cooperate in a random biological fluid testing program. CMA's amendment requests have been rejected by the Medical Board, but a final decision by the Office of Administrative Law is still pending.</p>	<p>10/23/09.</p> <p>Expected Decision: 9/14/10.</p>	
<p><u>TIMELY ACCESS REGULATION (Department of Managed Health Care, DMHC)</u> These regulations would require health plans and physicians to abide by specific time standards when setting up appointment for patients (e.g., urgent care appointments within 48 hours of the requested appointment). CMA submitted comments to give physicians more flexibility in abiding by the specific time standards, and to prohibit health plans from passing on administrative costs to physicians associated with the implementation of the regulation.</p>	<p>Noticed: 9/25/09. CMA comments submitted 10/7/09. Approved by OAL 12/21/09.</p> <p>EFFECTIVE: 1/17/10. HMOs must demonstrate compliance plans to DMHC: 10/17/10. Full implementation by HMOs required: 1/17/2011</p>	<p>Armand Feliciano</p>
<p><u>GLAUCOMA CERTIFICATION REQUIREMENTS (Board of Optometry)</u> These regulations were issued as a result of SB 1406 (Correa), which was chaptered in 2008. These regulations would establish requirements that optometrists must meet in order to be issued a certificate to treat glaucoma. In its current form, the regulations would allow optometrists to treat glaucoma without requiring any hands-on training, to which CMA has testified in opposition.</p>	<p>Noticed: 11/12/09. CMA comments submitted 12/21/09. Awaiting Board revision and vote.</p> <p>Expected Decision: 11/12/10.</p>	<p>Veronica Ramirez</p>
<p><u>HEALTHY FAMILIES PROGRAM: LEGAL IMMIGRANTS (Managed Risk Medical Insurance Board)</u> These emergency regulations would allow the State to access Federal funding to cover legal immigrants who have been in the country less than five years. The State of California has previously covered this population using State funds but, due to changes passed to the CHIP program earlier this year, the Federal Government will now cover this population. CMA stands in support of these regulations, as they would provide health care to all children regardless of immigration status.</p>	<p>Noticed: 11/12/09. CMA comments submitted 1/4/10.</p> <p>EFFECTIVE: 1/21/10.</p>	<p>David Ford</p>
<p><u>PATIENT-CENTERED PRESCRIPTION LABELS (Board of Pharmacy)</u> This regulatory package would specify how prescription drug information is to be displayed on a prescription drug container label. It would require pharmacists, when applicable, to use standardized words and phrases on these labels to describe directions for use of the drug. These regulations would also clarify what language interpretive services are required to be provided by pharmacies and would require the Board of Pharmacy to publish language translations of certain directions of use on its website by October 2011. CMA generally supports these regulations, with the exception of a physician liability concern that has since been corrected by the Board.</p>	<p>Noticed: 11/12/09. CMA comments submitted 1/4/10.</p> <p>Expected Decision: 11/12/10.</p>	<p>Veronica Ramirez</p>
<p><u>DISCOUNT HEALTH PLANS (Department of Managed Health Care)</u> The Department of Managed Health Care (DMHC) is currently considering regulations that would allow them to regulate "discount health plans." The discount health plan business model generally market discount health services to employers and individual consumers. Services can include dental, chiropractic, pharmacy, acupuncture, physician, hospital or basic medical care. The programs</p>	<p>Noticed: 1/8/10. CMA to submit comments by 2/22/10. Awaiting hearing date.</p> <p>Expected Decision: 1/8/11.</p>	<p>Armand Feliciano</p>

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<p>typically charge a monthly or annual fee in exchange for a list of participating providers whose services will be provided at a "discount." Marketing of these programs has increased through the use of the Internet and fax machines.</p> <p>CMA will submit comments in opposition to the regulations and has requested a public hearing by DMHC.</p>		
<p><u>MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS (Federal Centers for Medicare and Medicaid Services)</u></p> <p>Under the American Recovery and Reinvestment Act (ARRA, also known as the "Stimulus Bill"), Medicare provider physicians are eligible to receive up to \$44,000 for demonstrating "meaningful use" of an electronic health record (EHR) system. This Federal rulemaking will institute the first stage of the definition of meaningful use. As the incentive program continues, there will be two more stages.</p>	<p>Language released: 12/30/09.</p> <p>60-day comment period 1/13/10-3/5/10.</p>	<p>David Ford</p>

Rulemaking Process

The executive rulemaking process is governed by the Administrative Procedures Act (Government Code § 11340). Once the appropriate state agency has published the regulatory text and notified the public of its availability, regulations are said to have been officially "noticed." This commences a 45-day minimum comment period during which written public comments may be submitted. In many cases, a public hearing will be held at the close of the comment period through which the agency may receive oral testimony.

The agency will then consider the comments and make appropriate changes to the regulatory text. Major changes require that the regulations be noticed and published for a second 45-day minimum comment period and public hearing. Substantial and sufficiently-related changes only require a 15-day comment period. If no substantial changes are made, the agency will issue a Final Statement of Reasons responding to all comments.

The agency then officially adopts the regulations and files them with the Office of Administrative Law (OAL) within one year of the official notice date. If the OAL approves the regulations, they are filed with the Secretary of State and effective within 30 days. If the OAL rejects the regulations, the OAL can either return them to the agency for revisions or publish a final notice of disapproval.