

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 20, 2016
 ATTENTION: Members, Medical Board of California
 SUBJECT: Requirements for Physicians on Probation
 STAFF CONTACT: Christina Delp, Chief of Enforcement

RECOMMENDED ACTION:

After review and consideration of the proposed requirements for physicians on probation, make a motion to direct staff to prepare the necessary regulatory documents to submit to the Office of Administrative Law (OAL) to formally notice the proposed regulatory amendments and schedule a hearing on the rulemaking to amend Title 16, Division 13, Chapter 2, Article 3, California Code of Regulations (CCR), section 1358.

BACKGROUND AND ANALYSIS:

The amendments proposed in this rulemaking would remove outdated language referencing the “division” and the “Probation Surveillance Compliance Program” and replace it with references to the “Board” and “Probation Program.” The proposed amendments would also specify that probationers are required to cooperate with all of the terms and conditions of the Order placing them on probation, in addition to referrals for biological fluid testing.

Staff recommends the Board authorize staff to prepare the necessary regulatory documents to submit to OAL to formally notice the proposed regulatory amendments and schedule a hearing on the rulemaking. The proposed language for CCR section 1358 is included below for the Board’s review. The proposed amendments are identified by ~~strikethrough~~ for deleted text and underlined text for additions.

PROPOSED REGULATION LANGUAGE:

California Code of Regulations
 Title 16, Division 13, Chapter 2, Article 3

Section 1358 Requirements for Physicians on Probation

Each physician and surgeon who has been placed on probation by the ~~division~~ Board shall be subject to the ~~division's~~ Board's Probation ~~Surveillance Compliance~~ Program and shall be required to fully cooperate with representatives of the ~~division~~ Board and its ~~investigative~~ personnel. Such cooperation shall include, but is not necessarily limited to, compliance with each term and condition in the Order placing the physician and surgeon on probation, and submission to laboratory biological fluid testing for the purpose of determining the existence of alcohol, narcotics, other controlled substances and/or dangerous drugs in his or her system. Such biological fluid tests shall be made at the times and places required by the ~~division~~ Board or its duly authorized representative. Any monetary fees incurred as a result of ~~such laboratory tests~~ a term or condition of probation, or biological fluid testing shall be borne by the physician-probationer.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2227, 2228, and 2229, Business and Professions Code.