

FINAL STATEMENT OF REASONS

The California State Medicaid program, Medi-Cal, is authorized under Title XIX of the federal Social Security Act and is jointly funded by the state and federal governments. Medi-Cal is administered by the Department of Health Care Services (Department). Health care providers licensed under applicable provisions of the Business and Professions Code (B&P) who also meet Medi-Cal statutory and regulatory requirements may be enrolled as “Medi-Cal providers” by the Department, pursuant to Welfare and Institutions (W&I) Code Section 14043.15. Among the health care providers who may be enrolled as Medi-Cal providers are Nonphysician Medical Practitioners (NMPs). NMPs include Nurse Midwives (NMs), Nurse Practitioners (NPs), and Physician Assistants (PAs).

Medi-Cal providers, including NMs, NPs and PAs are mandated to practice within the scope and standards of practice of and in accordance with applicable professional licensing statutes and regulations, pursuant to the Medical Practice Act, Nursing Practice Act, and Physician Assistant Practice Act, set forth in B&P Code Sections 2000 et seq.; 2700 et seq; and 3500 et seq., respectively, and implementing regulations under Title 16, Division 2, California Code of Regulations (CCR), and in accordance with the authority and jurisdiction of the applicable licensing boards.

The amendments proposed through this regulatory action will maintain the scope and standards of practice for Medi-Cal NMPs in the appropriate location, under each provider’s applicable professional licensing statutes and regulations, as described above. This will eliminate impermissible conflict with and unnecessary duplication of provisions under the B&P Code; Title 16, CCR, Division 2; and Title 22, CCR, Division 3. This will also avoid the need to revise these regulations when the scope or standards of practice for these providers change through B&P Code and/or Title 16 changes.

The specific purpose and rationale for the proposed amendments under the affected CCR sections are discussed below.

Section 51240

Subsection (b) is amended to 1) remove the outdated provisions under paragraphs (1) through (4); and 2) include a cross reference, similar to that under Section 51305(k), to the applicable professional licensing statutes and regulations, in accordance with the requirements of W&I Code Section 14043.47(a).

These amendments will maintain the scope and standards of practice for Medi-Cal NMPs (including supervision requirements) in the appropriate location (applicable professional licensing statutes and regulations) and avoid impermissible conflict with, unnecessary duplication of and the necessity to update provisions under Title 22, CCR, Division 3.

Subsection (e) is removed because it is outdated and repetitive of standards that are or may be contained in the professional licensing statutes and regulations for NPs.

Section 51305

Subsection (k) is amended to correct a typographical error, specifically the removal of “s” from the term “physician” to accurately represent this term as it is used in the phrase “physician services.”

Subsection (k)(1) is amended to correct a typographical error, specifically replacing the term “non-physician” with “nonphysician” to accurately reflect this term without a hyphen.

Subsection (k)(1) is also amended to 1) remove the requirement that NMP entries in a patient’s health record be reviewed by the primary care physician within seven calendar days of the date of service; and 2) add a cross reference requiring that the record review occur to the extent required by applicable professional licensing statutes and regulations. These amendments will maintain the scope and standards of practice (including health record review) for NMPs in the appropriate location (applicable professional licensing statutes and regulations) and avoid impermissible conflict with, unnecessary duplication of and the necessity to update provisions under Title 22, CCR, Division 3.

Section 51476

Subsection (a)(7) is amended to add a cross reference requiring NMP signatures and supervising physician countersignatures to the extent required by applicable professional licensing statutes and regulations. This amendment will maintain the scope and standards of practice (including signature requirements) in the appropriate location (applicable professional licensing statutes and regulations), and avoid impermissible conflict with, and avoid unnecessary duplication of and the necessity to update provisions under Title 22, CCR, Division 3.

PUBLIC PROCEEDINGS

The Department received 13 comment letters during the public comment period, which commenced on December 30, 2011 and ended on February 17, 2012. See the *Addendum to the Final Statement of Reasons*, attached hereto, for a summary of and response to the comments.

A public hearing was not requested.

STATEMENTS OF DETERMINATION

(a) Alternatives Considered

The Department has determined that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which

the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

(b) Local Mandate Determination

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

(c) Economic Impact Statement

The Department has determined that the proposed regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the proposed regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

Medi-Cal is a voluntary program for both service providers and beneficiaries. This proposed regulatory action will affect only those businesses that utilize the services of NMPs who provide services under the Medi-Cal program.

(d) Effect on Small Businesses

The Department has determined that the regulations would affect small businesses since some Medi-Cal providers meet the criteria for small business. Medi-Cal is a voluntary program for both service providers and beneficiaries. Therefore, only those businesses that choose to be Medi-Cal providers and elect to use NMPs would be affected by these regulations.

(e) Housing Costs Determination

The Department has made the determination that the proposed regulations would have no impact on housing costs.