



**BOARD OF EQUALIZATION  
BUSINESS TAXES COMMITTEE MEETING MINUTES**

HONORABLE DIANE L. HARKEY, COMMITTEE CHAIR  
450 N STREET, SACRAMENTO  
MEETING DATE: AUGUST 30, 2016, TIME: 9:00 A.M.

**ACTION ITEMS & STATUS REPORT ITEMS**

**Agenda Item No: 1**

**Title: Proposed revisions to Regulation 1591, *Medicines and Medical Devices***

**Issue/Topic:**

Whether the Board should amend Regulation 1591, *Medicines and Medical Devices*, to clarify that permanently implanted articles that mark the location of “or otherwise monitor” a medical condition qualify as “medicines” under subdivision (b)(2), *Permanently Implanted Articles*.

**Committee Discussion:**

Staff introduced the issue. There was no discussion of this item.

**Committee Action/Recommendation/Direction:**

Upon motion by Mr. Horton, seconded by Mr. Runner, without objection, the Committee approved and authorized for publication the proposed amendments to Regulation 1591. A copy of the proposed amendments to Regulation 1591 is attached.

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Honorable Diane L. Harkey, Committee Chair

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David J. Gau, Executive Director

BOARD APPROVED

at the August 31, 2016 Board Meeting

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Joann Richmond, Chief  
Board Proceedings Division

**REGULATION 1591, MEDICINES AND MEDICAL DEVICES.**

*Reference:* Sections 6006 and 6369, Revenue and Taxation Code, and sections 1200, 1200.1, 1204.1, and 1250, Health and Safety Code.

***Only the relevant subdivision of the regulation being amended is included in this exhibit.***

(b) "MEDICINES." In addition to the definition set forth in subdivision (a)(9) of this regulation, the term "medicines" means and includes the following items:

[¶] . . . [¶]

(2) PERMANENTLY IMPLANTED ARTICLES. Articles permanently implanted in the human body to assist the functioning of, as distinguished from replacing all or any part of, any natural organ, artery, vein or limb and which remain or dissolve in the body qualify as medicines. In addition, articles permanently implanted in the human body to mark the location of or otherwise monitor a medical condition, such as breast tissue markers, qualify as medicines. An article is considered to be permanently implanted if its removal is not otherwise anticipated. Except for devices excluded from the definition of "medicines," permanently implanted articles include the interdependent internal and external components that operate together as one device in and on the person in whom the device is implanted. Tax does not apply to the sale or use of articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb or mark the location of or otherwise monitor a medical condition, and which remain or dissolve in the body when such articles are sold or furnished under one of the conditions provided in subdivision (d)(1) through (d)(6).

Permanently implanted articles include, but are not limited to, permanently implanted artificial sphincters; bone screws and bone pins, dental implant systems including dental bone screws and abutments; permanently implanted catheters; permanently implanted hydrocephalus devices and their implanted pressure regulating components; implanted defibrillators and implanted leads; pacemakers; tendon implants; testicular gel implants; and ear implants, including the ear implant's interdependent internal and external components. Sutures are also included whether or not they are permanently implanted. A non-returnable, nonreusable needle fused or prethreaded to a suture is regarded as part of the suture.

Implantable articles that do not qualify as "permanently" implanted medicines include, but are not limited to, Chemoport implantable fluid systems; Port-a-Cath systems used for drug infusion purposes; disposable urethral catheters; temporary myocardial pacing leads used during surgery and recovery; and defibrillator programmer and high voltage stimulator used with an implanted defibrillator.

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The proposed language contained in this document may not be adopted. Any version that is adopted may differ from this text.