

Agenda Item # 11.B.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
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DATE: February 5, 2009

TO: Board Members

FROM: Sophia Cornejo
Administrative Analyst

SUBJECT: **Conforming Regulations Regarding Responding to Board Inquiries, Fingerprint and Disclosure Requirements and Fee Increase**

Pursuant to the Office of Administrative Law's emergency regulation procedures, the Board of Vocational Nursing and Psychiatric Technicians (Board) must prepare a certificate of compliance to make the regulations permanent. This entails submitting the Responding to Board Inquiries, Fingerprint and Disclosure Requirements, and Fee Increase regulations through the regular rulemaking process including a 45-day notice and comment period.

You already have in your packets (Agenda Item 11) a copy of the emergency regulations, which became effective January 9, 2009. The regular rulemaking will be similar to the existing emergency regulations, though it may expand on the scope of the board inquiries and make clarifying changes to the fingerprint and disclosure requirements. See attached draft. Board staff expects to present the language to the Board members for review and approval at the May 22, 2009, Board Meeting.

Recommendation:

Direct staff to proceed with the rulemaking process to propose permanent regulations regarding responding to board inquiries, fingerprint and disclosure requirements and fee changes.

Attachment

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

VOCATIONAL NURSING REGULATIONS

(1) Adopt Section 2504.1 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 1. General Provisions

2504.1. Response to Board Inquiry.

- (a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.
- (b) A licensee shall provide true and accurate information and responses and not take any action to obstruct any Board inquiry, investigation, hearing or proceeding.

NOTE: Authority cited: Sections 2841.1 and 2854, Business and Professions Code. Reference: Sections 144, 2847, 2854, 2875, 2878, and 2878.6, Business and Professions Code; and Section 11105, Penal Code.

(2) Adopt Section 2517.5 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 4. Licenses

2517.5. Fingerprint and Disclosure Requirements for Renewal of License.

- (a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.
- (1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
- (2) A licensee shall certify on the renewal form whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.
- (3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.
- (4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose on the renewal form whether, since the license was last renewed, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any license issued by any federal, state or local agency.

(c) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority: Sections 144, 2841.1, 2854, Business and Professions Code. Reference: Sections 144, 2841.1, 2854, 2878, 2878.6, 2878.8, 2892.1, and 2892.3, Business and Professions Code; and Section 11105, Penal Code.

(3) Amend Section 2537 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 6. Revenue

2537. Fees.

The following fees are established:

(a) The fee to be paid upon the filing of an application is seventy-five dollars (\$75).

(b) The re-examination application fee (for any examination after the first) is seventy-five dollars (\$75).

(c) The biennial renewal fee is one hundred twenty dollars (\$120). For licenses that expire on or after July 1, 2009, the biennial renewal fee shall be one hundred fifty dollars (\$150). In addition, an assessment of five dollars (\$5) shall be collected and credited to the Vocational Nurse Education Fund, pursuant to section 2895.5 of the Code.

(d) The delinquency fee is sixty dollars (\$60). For licenses that expire on or after July 1, 2009, the delinquency fee shall be seventy-five dollars (\$75).

(e) The initial license fee is one hundred twenty dollars (\$120). The initial license fee on or after July 1, 2009, shall be one hundred fifty dollars (\$150).

(f) The interim permit fee is forty dollars (\$40).

(g) The duplicate license fee is twenty-five dollars (\$25).

(h) The endorsement fee is seventy-five dollars (\$75).

(i) The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is ten dollars (\$10).

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2867.5, 2895, 2895.1 and 2895.5, Business and Professions Code; and Section 6157, Government Code.

(4) Amend Section 2540.6 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 7. Continuing Education

2540.6. Inactive Licenses.

- (a) A license will be placed on inactive status when the renewal fee is paid and continuing education requirements have not been met.
- (b) To reactivate an inactive license the licensee must submit proof of thirty hours of continuing education taken during the preceding two years and furnish a full set of fingerprints as required by section 2517.5.

NOTE: Authority cited: Sections 2841.1 and 2854, Business and Professions Code. Reference: Sections 144, 700, 701, 703, 704, 2854, 2875, 2878, and 2892.5, Business and Professions Code; and Section 11105, Penal Code.

PSYCHIATRIC TECHNICIAN REGULATIONS

(1) Adopt Section 2564.1 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 2. Application for License

2564.1. Response to Board Inquiry.

- (a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.
- (b) A licensee shall provide true and accurate information and responses and not take any action to obstruct any Board inquiry, investigation, hearing or proceeding.

NOTE: Authority cited: Sections 4501.1, 4503, and 4504, Business and Professions Code. Reference: Sections 125.9, 144, 4503, 4510, 4511, 4521, 4521.2, and 4523, Business and Professions Code; and Section 11105, Penal Code.

(2) Adopt Section 2575.5 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 4. Licenses

2575.5. Fingerprint and Disclosure Requirements for Renewal of License.

- (a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.
- (1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
 - (2) A licensee shall certify on the renewal form whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.
 - (3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.
 - (4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.
- (b) As a condition of renewal, an applicant for renewal shall disclose on the renewal form whether, since the license was last renewed, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any license issued by any federal, state or local agency.
- (c) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.
- (d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Sections, 144, 4501.1 and 4504, Business and Professions Code. Reference: Sections 144, 4503, 4515, 4521, 4521.6 4544, and 4545, Business and Professions Code; and Section 11105, Penal Code.

(3) Amend Section 2590 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 6. Revenue

2590. Fees.

The following fees are established:

- ~~(a) The application fee is twenty five dollars (\$25).~~
- ~~(b) The biennial renewal fee is ninety dollars (\$90). The delinquent fee is 50% of the renewal fee in effect at the time of renewal.~~
- ~~(c) Notwithstanding subsection (b), licensees shall renew according to the following schedule:
 - ~~(1) In 1992, for licensing periods beginning on or after July 1, 1992, licensees with an even birth year shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90). Licensees with an odd birth year shall renew for one year and the annual renewal fee shall be forty-five dollars (\$45).~~
 - ~~(2) In 1993, licensees with an odd birth year shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90). Licensees with an even birth year who were initially licensed or renewed between January 1, 1992 and June 30, 1992 shall renew for one year and the renewal fee shall be forty-five dollars (\$45).~~
 - ~~(3) On or after January 1, 1994, all renewing licensees shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90).~~~~
- ~~(d) The reexamination fee for any examination after the first is thirty-five dollars (\$35).~~
- ~~(e) For licensing periods beginning on or after July 1, 1992, the fee for an initial license shall be ninety dollars (\$90). Licenses shall expire at two year intervals on the last day of the month in which the licensee's birthday occurs, beginning with the second birthday following the date on which the license was issued.~~
- ~~(f) The penalty fee for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the Board is ten dollars (\$10).~~

The following fees are established:

- (a) The fee to be paid upon the filing of an application is one hundred dollars (\$100).
- (b) The re-examination application fee (for any examination after the first) is one hundred dollars (\$100).
- (c) For a license that expires on or after July 1, 2009, the biennial renewal fee is three hundred dollars (\$300).
- (d) For a license that expires on or after July 1, 2009, the delinquency fee is one hundred fifty dollars (\$150).
- (e) The initial license fee on or after July 1, 2009 is three hundred dollars (\$300).
- (f) The interim permit fee is twenty dollars (\$20).
- (g) The duplicate license fee is twenty dollars (\$20).
- (h) The endorsement fee is twenty dollars (\$20).
- (i) The post-licensure certification in blood withdrawal fee is twenty dollars (\$20).

(j) The biennial fee for renewal for a provider of an approved continuing education course or a course to meet the certification requirements for blood withdrawal is one hundred fifty dollars (\$150).

(k) The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is ten dollars (\$10).

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 152.6, 4544 and 4548, Business and Professions Code; and Section 6157, Government Code.

(4) Amend Section 2592.6 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 7. Continuing Education

2592.6. Inactive Licenses.

- (a) A license will be placed on inactive status when the renewal fee is paid and continuing education requirements have not been met.
- (b) To reactivate an inactive license the licensee must submit proof of thirty hours of continuing education taken during the preceding two years and furnish a full set of fingerprints as required by section 2575.5.

NOTE: Authority cited: Sections 4501.1 and 4504, Business and Professions Code. Reference: Sections 144, 700, 701, 703, 704, 4503, 4517, and 4521, Business and Professions Code; and Section 11105, Penal Code.

(2/3/09)