

Agenda Item # 12.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
 2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945
 Phone (916) 263-7800 Fax (916) 263-7859 Web www.bvnpt.ca.gov



DATE: February 1, 2010

TO: Board Members

FROM: Lynne Shively
Licensing Program Manager

SUBJECT: **Regulatory Report: Examination & Dishonored Check Fee Regulations**

The Board of Vocational Nursing and Psychiatric Technicians' (Board) staff filed a Notice of Proposed Regulations with the Office of Administrative Law (OAL) on December 1, 2009, to amend the California Code of Regulations, Title 16, sections 2537 and 2590 relative to application, re-examination and dishonored check fees. The proposal is to make the fee change effective July 1, 2010.

The application and re-examination fees have not changed since January 1, 2000. The fees need to be increased to ensure that sufficient funds are available to maintain the fiscal solvency of the Board. According to the Department of Consumer Affairs' (DCA) Budget Office, both the Vocational Nursing (VN) Program and the Psychiatric Technicians (PT) Program face a fund deficit in Fiscal Year (FY) 2011/12 *without* these fee changes. The table below also shows that the PT Program will still need a future fee change prior to FY 2011/12 to avoid a fund deficit in FY 2011/12.

Table #1 – Fund Reserve Information (Months in Reserve*)				
Fund Category	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
VN Program:				
Without Fee Change	4.6	0.8	-2.3	-4.1
With Fee Change	4.6	2.2	0.9	0.6
PT Program:				
Without Fee Change	6.0	1.0	-4.1	-9.2
With Fee Change	6.0	1.2	-3.6**	-8.4

*Months in Reserve = Equates to the amount of money which is projected to remain in the fund account after annual expenditures. The amount of money is then converted to the equivalent number of operating months that is projected for the next fiscal year.
 **The PT Program will need a future fee adjustment to avoid a fund deficit in FY 2011/12. If this regulatory proposal is adopted, all of the major fee categories will be at the statutory maximums effective July 1, 2010.

In addition, the dishonored check fee has not changed for over twenty years. The DCA recently increased the dishonored check processing fee to \$25. The Board's dishonored check fee is in regulation. Therefore, the Board must amend its regulations to be consistent with the DCA processing fee, and to cover the administrative cost of processing the dishonored checks.

Regulation Hearing

On January 27, 2010, a public hearing was conducted by the Board in Sacramento. Prior to the hearing, the Board received written testimony from two individuals. Seven people attended the regulatory hearing and five people actually testified. In summary, the Board received the following written and oral testimony:

1. American Career College, Orange County, Asma Khan, Director – Ms. Khan submitted written and oral testimony in support of the Board's fee change proposal. Ms. Khan stated that American Career College has always supported the Board in its mission to protect the public and although the fees will be increased, will continue to pay their students' fees. She inquired as to whether the Board will hire new staff because she is concerned with the current processing time on education-related issues.
2. American Nurses Association, California (ANA/C), Tricia Hunter – Ms. Hunter stated that ANA/C opposes the fee increases for LVNs while there are furloughs for employees in a special funded Board. Additionally, she stated that although she supports the Board's programs and Board Members, the Board should be allowed to spend its monies on required activities.
3. California Association of Psychiatric Technicians (CAPT), Ann Lyles Liaison – Ms. Lyles stated that CAPT opposes the fee increases for PTs. She indicated that the PT license is currently the most expensive to maintain and increasing the PT license application fee by 50% could potentially price the PT field out of existence. Additionally, she noted that since the majority of PT applications are submitted by California accredited schools, the fraudulent transcripts are not submitted by PT applicants.
4. CAPT, Tony Myers, President – Mr. Myers stated that CAPT opposes the fee increases for PTs. He indicated that the Initial Statement of Reasons did not provide sufficient reason for the fee change. Most of the examples cited related to licensed vocational nurses (LVNs) and not Psychiatric Technicians (PTs). Furthermore, the Board needs to explain the necessity to increase the re-examination fees as the procedures are much simpler than a full evaluation. Mr. Myers indicated that CAPT has no problem with the proposed dishonored check fee.
5. California Nurses Association (CNA), Lydia Bourne – Ms. Bourne stated that CNA opposes the fee increase for LVNs. She indicated that there is no legal reason for the Board's employees to be furloughed. She also stated that the furloughs are compromising the licenses from being processed during a critical time period and impacts the enforcement process. She is concerned that with the 15% cut on employee wages, the Board will not be able to attract appropriate and skilled staff.
6. High Desert Medical College, Inc., Agnieszka Sibbitt, Director – A letter, dated January 26, 2010, was received and indicated her support of the fee change for both Sections 2537 and 2590. No comments were provided.
7. John Weaver, PT Licensee – A letter, dated January 18, 2010, was received and indicated as a retired PT he could not afford to maintain his license. He indicated the cost of continuing education, fingerprinting, professional liability insurance and the \$300 license renewal fee was too costly and prohibitive.

Recommendations:

1. The Board approve the regulatory proposal to amend Division 25 of Title 16, California Code of Regulations, to amend section 2537 (VN) and section 2590 (PT) to reflect the following fee changes:

	<u>VN Program</u>	<u>PT Program</u>
➤ Examination Applications	From \$75 to \$150	From \$100 to \$150
➤ Retake Applications	From \$75 to \$150	From \$100 to \$150
➤ Dishonored Checks	From \$10 to \$25	From \$10 to \$25

2. Direct staff to submit the rulemaking file to the DCA and to the OAL for final approval; and
3. Authorize the Executive Officer to make non-substantive changes as are required by the Director of the DCA and the OAL.

Attachments: Proposed Regulatory Language
Initial Statement of Issues
Notice of Proposed Changes

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

VOCATIONAL NURSING REGULATIONS

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)~~ **one hundred fifty dollars (\$150)**.
- (b) The re-examination application fee (for any examination after the first) is ~~seventy-five dollars (\$75)~~ **one hundred fifty dollars (\$150)**.
- (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. If the license is renewed more than 30 days after its expiration, the renewal fee for the current cycle shall be the renewal fee in effect on the date the renewal fee is paid.
- (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) fee on or after July 1, 2009, shall be one hundred fifty dollars (\$150).
- (e) The initial license fee is one hundred twenty dollars (\$120). Effective July 1, 2009, the initial license fee 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~~ **twenty five dollars (\$25)**.

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.

PSYCHIATRIC TECHNICIAN REGULATIONS

Article 6. Revenue

2590. Fees.

The following fees are established:

- (a) The fee to be paid upon the filing of an application is ~~one hundred dollars (\$100)~~ **one hundred fifty dollars (\$150)**.
- (b) The re-examination application fee (for any examination after the first) is ~~one hundred dollars (\$100)~~ **one hundred fifty dollars (\$150)**.
- (c) For a license that expires on or after July 1, 2009, the biennial renewal fee is three hundred dollars (\$300). If the license is renewed more than 30 days after its expiration, the renewal fee for the current cycle shall be the renewal fee in effect on the date the renewal fee is paid.
- (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~~ **twenty five dollars (\$25)**.

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.