STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
**Board of Vocational Nursing and Psychiatric Technicians**
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DATE: February 13, 2014

TO: Board Members

FROM: Cheryl C. Anderson, M.S., R. N.
Supervising Nursing Education Consultant

SUBJECT: Update on Proposed Regulatory Action to Implement SB 539, Permissive Site Visits

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## STATEMENT OF ISSUES

The Board is mandated to ensure the protection of consumers. Pursuant to Business and Professions Code Sections 2883 and 4532 (Senate Bill 539, Chapter 338, Statutes of 2011), the Board is authorized to inspect all schools for preparation of vocational nurses and psychiatric technicians to determine the program's compliance with prescribed standards for approval.

Revision of existing regulations is required to reflect this statutory change.

## BACKGROUND AND SUBJECT REVIEW

On September 26, 2011, SB 539 was approved, thereby extending the operation of the Board of Vocational Nursing and Psychiatric Technicians through 2016. Additionally, the bill specified the Board's authority to inspect or review all vocational nursing and psychiatric technician programs to determine if approval should be granted or continued.

Current regulations specify the Board shall conduct a survey visit prior to graduation of the initial vocational nursing or psychiatric technician class. Further, six (6) months prior to the date of approval expiration, programs may apply for continued approval based upon submission of documentation satisfactory to the Board. Existing language specifies that the Board may conduct a subsequent survey visit to determine a program's continued approval. As such, a revision of existing regulations is required to implement the statutory change.

On May 10, 2012, the Board approved the proposal to amend **California Code of Regulations, Title 16, Division 25, Chapter 1, Article 5**, Sections 2526 (c) and 2526 (f), and **California Code of Regulations, Title 16, Division 25, Chapter 2, Article 5,** Sections 2581(c) and 2581(f), and directed staff to submit the Rulemaking File to the Department of Consumer Affairs (DCA) and to the Office of Administrative Law (OAL). Additionally, the Board authorized the Executive Officer to make non – substantive changes as are required by the Director of DCA and OAL.

On June 3, 2013, the Rulemaking File was submitted to the Board's legal counsel for review. On June 11, 2013, the Rulemaking File was submitted to OAL.

On June 21, 2013, the proposed regulations were published in the California Notice Register. The Notice, Proposed Language and Initial Statement of Reasons were uploaded to the Board's website and electronic correspondence with a link to the website disseminated to interested parties expressly requesting placement on the Board's email list. Additionally, the Board mailed a copy of the notice to other interested parties.

On July 24, 2013, the Board received electronic correspondence from Katherine Demos, Regulations Coordinator, DCA's Division of Legislative & Policy Review. Additional revisions were recommended to achieve clarity in Section 2526(f) of the Vocational Nursing Rules and Regulations and Section 2581(f) of the Psychiatric Technician Rules and Regulations. Ms. Demos opined that the proposed changes were non – substantive, but recommended consultation with legal counsel.

On August 5, 2013, a public hearing was held in the Board's Administrative Conference Room. The Board received no oral or written comments from the public prior to or during the hearing.

On August 13, 2013, the Board's legal counsel advised that the changes as recommended by DCA's Division of Legislative & Policy Review constituted substantive changes. As such, the Board was advised that an additional 15 – day notice and republication of the proposed changes was recommended.

On August 19, 2013, the Notice, Proposed Language, as amended and Initial Statement of Reasons were uploaded to the Board's website.

On October 21, 2013, the Board approved the amended notice, proposed language, and Initial Statement of Reasons. Additionally, the Board directed staff to submit the Final Rulemaking File to the Department of Consumer Affairs and to the Office of Administrative Law for final approval and authorized the Executive Officer to make non – substantive changes as are required by the Director of the Department of Consumer Affairs and the Office of Administrative Law.

On February 3, 2014, the Board submitted the Economic and Fiscal Impact Statement to the DCA Budget Office for review and approval. The Board is required to have the Economic and Fiscal Impact Statement signed by the Agency Secretary and Department of Finance prior to submitting the Final Rulemaking File to OAL for review.

Preparation and submission of the Final Rulemaking File to OAL is anticipated to be completed by February 28, 2014.

**RECOMMENDATION:**

No further action required