

Agenda Item #11.B.



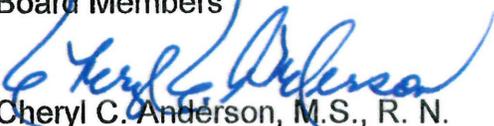
BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Vocational Nursing and Psychiatric Technicians
2535 Capitol Oaks Drive Suite 205, Sacramento, CA 95833-2945
Phone 916-263-7800 Fax 916-263-7855 www.bvnpt.ca.gov



DATE: August 18, 2015

TO: Board Members

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

SUBJECT: Proposed Regulatory Action to Amend California Code of Regulations Sections 2526.1 (VN) and 2581.1 (PT), Provisional Approval, and Sections 2530 (VN) and 2585 (PT) General Requirements

On May 16, 2014, the Board approved proposed regulatory language to amend California Code of Regulations Sections 2526.1 (d), 2526.1 (e), and 2530 (I) [VN] and Sections 2581.1 (d), 2581.1 (e), and 2585 (I) [PT]. The Board directed staff to prepare a rulemaking file for notice and comment and authorized the Executive Officer to make non – substantive changes as required by the Director of the Department of Consumer Affairs and the Office of Administrative Law.

On June 19, 2014, final approval of the Notice of Public Hearing, Proposed Language, Initial Statement of Reasons, and Economic and Fiscal Impact Statement was received from the Board's Legal Counsel. Final documents were submitted to the Office of Administrative Law (OAL), in accordance with the California Regulatory Notice Register calendar.

On July 3, 2015, the proposed regulations were published in the California Regulatory Notice Register. In accordance with requirements of the OAL, the following documents were uploaded to the Board's website.

- Notice of Proposed Changes.
- Proposed Language – Vocational Nursing.
- Proposed Language – Psychiatric Technician.
- Initial Statement of Reasons.

Additionally, electronic correspondence was disseminated to interested parties expressly requesting placement on the email list with a link to the Board's website.

On July 6, 2015, DCA's Legal Division recommended additional revision of the proposed language to ensure clarity and comprehensiveness.

On August 13, 2015, the Board received written comments from directors of the following programs:

- American Career College, Anaheim, Vocational Nursing Program;
- American Career College, Los Angeles, Vocational Nursing Program;
- American Career College, Ontario, Vocational Nursing Program; and
- American Career College, St. Francis, Vocational Nursing Program.

On August 17, 2015, a public hearing was held in the Board's Administrative Conference Room. The Board received no oral comments from the public prior to or during the hearing.

As recommended by Legal Counsel, the proposed revisions constitute a substantive change. The Board was advised that an additional 15 – day notice and republication of the proposed changes was recommended.

Republication is scheduled for Tuesday, August 25, 2015. In accordance with requirements of the OAL, the following documents will be uploaded to the Board's website.

- Notice of Proposed Changes.
- Proposed Language – Vocational Nursing.
- Proposed Language – Psychiatric Technician.
- Initial Statement of Reasons.

Additionally, electronic correspondence will be disseminated to interested parties who submitted a written comment.

RECOMMENDATIONS:

1. Approve regulatory proposal as modified, to amend **California Code of Regulations, Title 16, Division 25, Chapter 1, (Vocational Nursing), Article 5, Section 2526.1 (a).**
2. Approve regulatory proposal as modified, to amend **California Code of Regulations, Title 16, Division 25, Chapter 2 (Psychiatric Technician), Article 5, Sections 2581.1 (a).**
3. Direct staff to submit the Final Rulemaking File to the Department of Consumer Affairs and to the Office of Administrative Law for final approval.
4. Authorize 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.

Attachment A: Proposed Regulatory Language to Amend California Code of Regulations Sections 2526.1 [VN] and 2581.1 [PT], Provisional Approval, and Sections 2530 [VN] and 2585 [PT], General Requirements

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

PROPOSED LANGUAGE

VOCATIONAL NURSING REGULATIONS

Article 5. Schools of Vocational Nursing

(1) Amend Section 2526.1 of Article 5 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2526.1. Provisional Approval.

~~(a) Provisional approval means a program has not met all requirements as set forth in this Chapter and in Chapter 6.5, Division 2 of the Business and Professions Code.~~

~~(b) Provisional approval shall be granted for a period determined by the Board.~~

~~(e) (a)~~ The Board may place **any** program on provisional approval ~~when that program does not~~ for a period of time as determined by the Board when that program fails to meet all requirements ~~as set forth in this Chapter and in Section 2526 of this Chapter, all other provisions of this Chapter, Chapter 6.5, Division 2 of the Business and Professions Code, , or federal laws, or other state laws or regulations.~~

(b) If the program has not met all requirements at the end of the initial provisional approval period, provisional approval may be extended if the program demonstrates to the satisfaction of the Board a good faith effort to correct all deficiencies.

~~(d) (c)~~ Any program ~~holding~~ placed on provisional approval may not admit "new" classes ~~beyond the established pattern of admission previously approved by the Board. The admission pattern is defined by the number of students per class and the frequency of admissions for the six class admissions that immediately precede the Board action to consider provisional approval~~ any additional class without prior approval by the Board.

~~(e) (d)~~ A program ~~placed on provisional approval~~ The Board shall ~~receive~~ provide written notification ~~from the Board to any program it places on provisional approval.~~ The notification to the program shall ~~include~~ delineate specific areas of noncompliance and requirements for correction. A program's failure to correct delineated areas of noncompliance or to comply with any required corrections is cause for revocation of provisional approval. Commission of additional violations

during the period of provisional approval is cause for revocation of provisional approval.

(f) (e) A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for revocation of provisional approval.

(g) (f) ~~A program whose~~ If the Board revokes provisional approval, ~~has been revoked shall be~~ it shall also removed that program from the Board's list of approved programs, which is maintained pursuant to Business and Professions Code section 2880. Once removed from the list, that program may not reapply for approval of a vocational nursing program for a minimum of one calendar year. The Board will determine the status of that program's students as potential applicants for licensure ~~will be determined by the Board.~~

~~(h) A program that is removed from the Board's list of approved programs subsequent to Board action based on the program's non-compliance with applicable regulations shall not reapply to establish a vocational nursing program for a minimum period of one calendar year.~~

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2880, 2881 and 2883, Business and Professions Code.

(2) Amend Section 2530 of Article 5 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2530. General Requirements.

(a) The program shall have sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory and equipment to achieve the program's objectives.

(b) The program shall hold Rregular faculty meetings and shall ~~be held.~~ make Mminutes ~~shall be~~ available to the Board's representative.

(c) Clinical faculty shall have no other responsibilities during the hours assigned to the instruction of students.

(d) Each teacher assistant shall work under the direction of an approved instructor. No more than one teacher assistant may be assigned to each instructor. Each teacher assistant shall assist the instructor in skills lab and clinical teaching only. The instructor to whom the teacher assistant is assigned shall be available to provide direction to the teacher assistant as needed.

(e) Each instructor shall have a daily lesson plan which correlates the theory and practice offered to the student. A copy of this plan shall be available to the director.

(f) The program's instructional plan shall be available to all faculty.

(g) Each school shall have on file proof that each enrolled student has completed a general education course of study through the 12th grade or evidence of completion of the equivalent thereof. Equivalency is determined by the Department of Education in any of the United States or by a nationally-recognized regional accrediting body.

(h) Each school shall have an attendance policy approved by the Board. The policy shall include but not be limited to, criteria for attendance and the specific course objectives for which make-up time is required. Acceptable methods for make-up include:

(1) Theory: case studies, independent study, written examination, attendance at seminars or workshops, auto-tutorial laboratory, and research reports.

(2) Clinical: performance evaluation in skills laboratory or additional time in the clinical area with clients/patients.

(i) The school shall evaluate student performance to determine the need for remediation or removal from the program.

(j) Each school shall advise students, in writing, of the following:

(1) Right to contact the Board of program concerns.

(2) Credit for previous education and experience.

(3) School's grievance policy.

(4) List of Board approved clinical facilities.

(k) The program shall have prior Board approval to increase the number of students per class and/or increase the frequency of admission of classes. Criteria to evaluate a school's request to increase the number of students per class and/or increase the frequency of class admissions include but are not limited to:

(1) Sufficient program resources as specified in Section 2530(a).

(2) Adequacy of clinical experience as specified in Section 2534.

(3) Licensure examination pass rates as specified in Section 2530(f).

(l) The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate for first time candidates of approved vocational nursing schools for the same period. ~~(1) Failure to maintain the required yearly average minimum pass rate for two years or eight consecutive quarters may be~~ is cause to place a program on provisional approval.

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2866, 2881 and 2882, Business and Professions Code.

PSYCHIATRIC TECHNICIAN REGULATIONS

Article 5. Schools for Preparation of Psychiatric Technicians

(3) Amend Section 2581.1 of Article 5 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2581.1. Provisional Approval.

~~(a) Provisional approval means a program has not met all requirements as set forth in this Chapter and in Chapter 10, Division 2 of the Business and Professions Code.~~

~~(b) Provisional approval shall be granted for a period determined by the Board.~~

~~(e) (a) The Board may place any program on provisional approval when that program does not~~ for a period of time as determined by the Board when that program fails to meet all requirements ~~as set forth in this Chapter and in Section 2581 of this Chapter, all other provisions of this Chapter, and of Chapter 10, Division 2 of the Business and Professions Code, or federal laws, or other state laws or regulations.~~

~~(b) If the program has not met all requirements at the end of the initial provisional approval period, provisional approval may be extended if the program demonstrates to the satisfaction of the Board a good faith effort to correct all deficiencies.~~

~~(d) (c) Any program holding placed on provisional approval may not admit "new" classes beyond the established pattern of admissions previously approved by the Board. The admission pattern is defined by the number of students per class and the frequency of admissions for the six class admissions that immediately precede the Board action to consider provisional approval~~ an additional class without prior approval by the Board.

~~(e) (d)~~ A program placed on provisional approval The Board shall ~~receive~~ provide written notification ~~from the Board~~ to any program it places on provisional approval. The notification to the program shall ~~include~~ delineate specific areas of noncompliance and requirements for correction. A program's failure to correct delineated areas of noncompliance or to comply with any required corrections is cause for revocation of provisional approval. Commission of additional violations during the period of provisional approval is cause for revocation of provisional approval.

~~(f) (e)~~ A material misrepresentation of fact by a psychiatric technician program in any information submitted to the Board is cause for revocation of provisional approval.

~~(g) (f)~~ A program whose if the Board revokes provisional approval, ~~has been revoked shall be~~ it shall also removed that program from the Board's list of approved programs, which is maintained pursuant to Business and Professions Code section 4530. Once removed from the list, that program may not reapply for approval of a psychiatric technician school program for a minimum of one calendar year. The Board will determine the status of that program's students as ~~potential~~ applicants for licensure ~~will be determined by the Board~~.

~~(h) A program that is removed from the Board's list of approved programs subsequent to Board action based on the program's non-compliance with applicable regulations shall not reapply to establish a psychiatric technician program for a minimum period of one calendar year.~~

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4511, 4515 and 4532, Business and Professions Code.

(4) Amend Section 2585 of Article 5 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2585. General Requirements.

(a) The program shall have sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory, and equipment to achieve the program's objectives.

(b) The program shall hold ~~R~~regular faculty meetings and shall ~~be held.~~ make ~~M~~minutes ~~shall be~~ available to the Board's representative.

(c) Clinical faculty shall have no other responsibilities during the hours they are assigned to the clinical instruction of students.

(d) Each teacher assistant shall work under the direction of an approved instructor. No more than one teacher assistant may be assigned to each instructor. Each teacher assistant shall assist the instructor in skills lab and clinical teaching only. The instructor to whom the teacher assistant is assigned shall be available to provide direction to the teacher assistant as needed.

(e) Each instructor shall have a daily lesson plan which correlates the theory and practice offered to the student. A copy of this plan shall be available to the director.

(f) The program's instructional plan shall be available to all faculty.

(g) Each school shall have on file proof that each enrolled student has completed a general education course of study through the 12th grade or evidence of completion of the equivalent thereof. Equivalency is determined by the Department of Education in any of the United States or by a nationally recognized regional accrediting body.

(h) Each school shall have an attendance policy approved by the Board. The policy shall include but not be limited to, criteria for attendance and the specific course objectives for which make-up time is required. Acceptable methods for make-up include:

(1) Theory: case studies, independent study, written examination, attendance at seminars or workshops, auto-tutorial laboratory, and research reports.

(2) Clinical: performance evaluation in skills laboratory or additional time in the clinical area with clients/patients.

(i) The school shall evaluate student performance to determine the need for remediation or removal from the program.

(j) Each school shall advise students, in writing, of the following:

(1) Right to contact the Board of program concerns.

(2) Credit for previous education and experience.

(3) School's grievance policy.

(4) List of Board approved clinical facilities.

(k) The program shall have prior Board approval to increase the number of students per class and/or increase the frequency of admission of classes. Criteria to evaluate a school's request to increase the number of students per class and/or increase the frequency of class admissions include but are not limited to:

- (1) Sufficient program resources as specified in Section 2585(a);
- (2) Adequacy of clinical experience as specified in Section 2588.
- (3) Licensure examination pass rates as specified in Section 2585(l).

(l) The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate for first time candidates of approved psychiatric technician schools for the same period. (1) Failure to maintain the required yearly average minimum pass rate ~~for two years or eight consecutive quarters may be~~ cause to place a program on provisional approval.

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4511 and 4515, Business and Professions Code.