

Agenda Item #21.C.



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

Board of Vocational Nursing and Psychiatric Technicians
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DATE: November 5, 2015

TO: Board Members

FROM:  Jennifer Almanza, Administrative Analyst
Administration Unit

SUBJECT: Proposed Regulatory Action to Amend California Code of Regulations Sections 2537 (VN) and 2590 (PT), Military Requirement

Statement of Issues

The proposed regulatory action will reduce or eliminate illegal and unauthorized practice in situations where an active duty licensee renews their license delinquently. It also provides clarity and specific direction to licensees to restore an inactive license to active status.

Background

Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces (Armed Forces) to reinstate his or her license without examination or penalty if certain requirements are met.

Existing law also requires the Board, with certain exceptions, to waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the Board, of any licensee who is called to active duty as a member of the Armed Forces if certain requirements are met. The licensee would also be required to meet certain renewal requirements within a specified time period after being discharged from active duty service prior to engaging in any activity requiring a license, and required to notify the Board of his or her discharge from active duty within a specified time period.

This regulatory proposal would add section 2537.2, section 2537.3, section 2590.2 and section 2590.3, and amend Title 16, of the California Code of Regulations (CCR) to reference a revised version of the Board's amendment to now be included with Article 6, Revenue.

The regulatory proposal will implement, clarify, and establish rules pertaining to chaptered Legislation (AB1588 and AB 1904) to provide for a temporary license renewal waiver to licensed vocational nurses and psychiatric technicians that are on active duty with the military and provide expedited license application processing for any spouse that is

married to, or in a legal union with, an active duty member of the military that is serving in California.

Recommendations:

1. Approve the regulatory proposal to amend California Code of Regulations, Title 16, Division 25, Chapter 1, Article 6, Section 2537.
2. Approve the regulatory proposal to amend California Code of Regulations, Title 16, Division 25, Chapter 2, Article 6, Section 2590.
3. Direct staff to submit the Rulemaking File to the Department of Consumer Affairs (DCA) and to the Office of Administrative Law (OAL).
4. Authorize the Executive Officer to make non-substantive changes as are required by the DCA Director and OAL.

Attachment A: Proposed Regulatory Language to Amend California Code of Regulations Title 16, Division 25, Chapter 1, Article 6, Section 2537.

Attachment B: Proposed Regulatory Language to Amend California Code of Regulations Title 16, Division 25, Chapter 2, Article 6, Section 2590.

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Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Vocational Nursing Regulations

- (1) Amend section 2537 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2537. Fees.

The following fees are established:

(a) The fee to be paid upon the filing of an application is one hundred fifty dollars (\$150).

(b) The re-examination application fee (for any examination after the first) is 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 a 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).

(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).43 (g).

(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 twenty-five dollars (\$25).

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2867.5, 2892.1, 2895, 2895.1 and 2895.5, Business and Professions Code; and Section 6157, Government Code.

History:

1. Amendment of subsection (a) filed 5-18-84; designated effective 1-1-85 (Register 84, No. 20). For prior history, see Register 83, No. 47.
2. Amendment of subsections (a), (b) and (d) filed 1-22-86; designated effective 4-1-86 (Register 86, No. 4).
3. Amendment filed 8-28-87; operative 8-28-87 (Register 87, No. 35).
4. Amendment of subsections (a), (b) and (e) filed 9-27-89; operative 10-27-89 (Register 89, No. 40.)

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5. Repealer of subsections (a) – (f), new subsections (a) – (i) and amendment of Note filed 6-14-2006; operative 1-1-2007 (Register 2006, No. 24).
6. Amendment of subsections (c)-(e) filed 1-9-2009 as an emergency; operative 1-9-2009 (Register 2009, No. 2). A Certificate of Compliance must be transmitted to OAL by 7-8-2009 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as 1-9-2009 order, including further amendment of section and amendment of Note, transmitted to OAL 6-30-2009 and filed 8-11-2009 (Register 2009, No. 33).
8. Amendment of subsections (a), (b) and (i) filed 8-12-2010; operative 10-1-10 (Register 2010, No. 33).

§ 2537.1. Provider's Fees.

Pursuant to Section 2892.6 of the Code, the following fees for applications for approval of continuing education courses are established:

- (a) The fee to be paid upon filing of an application for a continuing education provider is two hundred dollars (\$200).
- (b) The biennial renewal fee is two hundred dollars (\$200).

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Section 2892.6, Business and Professions Code.

History:

1. New section filed 3-29-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment filed 9-8-81; effective thirtieth day thereafter (Register 81, No. 37).
3. Repealer of subsections (a)-(c) and new subsections (a) and (b) filed 6-14-2006; operative 1-1-2007 (Register 2006, No. 24).

§ 2537.2. Waiver of Renewal Requirements for Licensees on Active Duty.

(a) Current licensees serving on active duty in the Armed Forces or California National Guard are exempt from the following license renewal requirements:

- (1) License renewal fee;**
- (2) Continuing education requirement;**

(b) Licensees must meet the following requirements in order to be exempt from the license renewal requirements set forth in Section 2537.2 (a):

- (1) Possess a current and active license with the Board when called to active duty;**
- (2) Provide written documentation to the Board that substantiates the licensee's active duty service.**

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(c) Licensees who qualify for exemption from the license renewal requirements shall submit a request for waiver to the Board in writing requesting an exemption from the License Renewal Requirements along with a copy of their military orders substantiating active duty service.

(d) Licensees exempt from the license renewal requirements shall not engage in any private practice that requires a vocational nursing license.

(e) Licensees receiving an exemption waiver will have their license placed on inactive status until all renewal requirements have been met.

(f) The licensee shall provide written notification of his/her discharge within sixty (60) days of their discharge date.

(g) The licensee shall meet all of the license renewal requirements within six (6) months from the date of discharge from active duty service.

§ 2537.3. Expedited Licensure for Spouses or Domestic Partners of Active Duty Military Personnel.

The licensure/registration process shall be expedited for spouses and domestic partners of those on active duty in the Armed Forces.

For an applicant's license/registration to be expedited, the applicant must:

a) Supply evidence that they are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official orders, and;

(b) Hold a current license/registration in another state, district or territory of the United States in the profession or vocation for which the applicant is seeking a license/registration.

This is intended to accelerate the licensure process for spouses and domestic partners of active duty military personnel. (Business and Professions Code section 115.5)

Note: Authority cited: Sections 114.3 and 2854, Business and Professions Code. Reference: Sections 2892, 2892.5, 2895 and 115.5. Business and Professions Code.

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Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Psychiatric Technician Regulations

- (2) Amend section 2590 of Division 25 of Title 16 of the California Code of Regulations to read as follows:

§ 2590. Fees.

The following fees are established:

- (a) The fee to be paid upon the filing of an application is one hundred fifty dollars (\$150).
- (b) The re-examination application fee (for any examination after the first) is 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 twenty-five dollars (\$25).

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 152.6, 4544, 4545 and 4548, Business and Professions Code; and Section 6157, Government Code.

History:

1. Amendment of subsection (b) filed 10-19-77 as an emergency; effective upon filing (Register 77, No. 43). For prior history, see Register 74, No. 31.
2. Amendment of subsection (b) refiled 3-27-78 as an emergency; effective upon filing (Register 78, No. 13).

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3. Certificate of Compliance filed 5-9-78 (Register 78, No. 19).
4. Amendment of subsection (b), and new subsection (c) filed 5-18-79; effective thirtieth day thereafter (Register 79, No. 20).
5. Amendment filed 11-16-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 47).
6. Amendment filed 4-7-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 15).
7. Amendment filed 5-12-92; operative 5-12-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
8. Repealer and new section filed 1-9-2009 as an emergency; operative 1-9-2009 (Register 2009, No. 2). A Certificate of Compliance must be transmitted to OAL by 7-8-2009 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as 1-9-2009 order, including amendment of section and Note, transmitted to OAL 6-30-2009 and filed 8-11-2009 (Register 2009, No. 33).
10. Amendment of subsections (a), (b) and (k) filed 8-12-10; Operative 10-1-10 (Register 2010, No. 33).

§ 2590.2 Waiver of Renewal Requirements for Licensees on Active Duty.

(a) Current licensees serving on active duty in the Armed Forces or California National Guard are exempt from the following license renewal requirements:

- (1) License renewal fee;
- (2) Continuing education requirement;

(b) Licensees must meet the following requirements in order to be exempt from the license renewal requirements set forth in Section 2590.2 (a):

- (1) Possess of a current and active license with the Board when called to active duty;
- (2) Provide written documentation to the Board that substantiates the licensee's active duty service.

(c) Licensees who qualify for exemption from the license renewal requirements shall submit a request for waiver to the Board in writing requesting an exemption from the License Renewal Requirements along with a copy of their military orders substantiating active duty service.

(d) Licensees exempt from the license renewal requirements shall not engage in any private practice that requires a psychiatric technician license.

(e) The licensee shall provide written notification of his/her discharge within sixty (60) days of the discharge date.

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(f) The licensee shall meet all of the license renewal requirements within six (6) months from the date of discharge from active duty service.

§ 2590.3. Expedited Licensure for Spouses or Domestic Partners of Active Duty Military Personnel.

The licensure/registration process shall be expedited for spouses and domestic partners of those on active duty in the Armed Forces.

For an applicant's license/registration to be expedited, the applicant must:

(a) Supply evidence that they are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official orders, and;

(b) Hold a current license/registration in another state, district or territory of the United States in the profession or vocation for which the applicant is seeking a license/registration.

This is intended to accelerate the licensure process for spouses and domestic partners of active duty military personnel. (Business and Professions Code section 115.5)

Note: Authority cited: Sections 114.3 and 4504, Business and Professions Code. Reference: Sections 4517, 4544, 4548 and 115.5, Business and Professions Code.