

Agenda Item #6.



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

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DATE: October 12, 2016

TO: Board Members

FROM: Kameka Brown, PhD, MBA, NP
Executive Officer

SUBJECT: 2016 Draft Board Member Administrative Procedure Manual

Attached for your review is the 2016 Draft Board of Vocational Nursing and Psychiatric Technicians Board Member Administrative Procedures Manual.



BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL



**Board of Vocational Nursing
and
Psychiatric Technicians**

MEMBERS OF THE BOARD

SAMANTHA JAMES-PEREZ, Board President

ANDREW MORENO, Public Member Board Vice President

BERNICE BASS DE MARTINEZ, Public Member

TODD D'BRAUNSTEIN, PT Member

JOHN DIERKING, Public Member

TAMMY ENDOZO, LVN Member

ERIC MAH, Public Member

DONNA NORTON, LVN Member

JOHN VERTIDO, LVN/Educator Member

VACANT, Public Member

VACANT, Public Member





Board of Vocational Nursing and Psychiatric Technicians Board Member Administrative Procedure Manual

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CHAPTER 1: INTRODUCTION

Mission

The mission of the California Board of Vocational Nursing and Psychiatric Technicians is to protect the public. Public protection is paramount to the Board and its highest priority in exercising its licensing, regulatory and disciplinary functions.

Vision

To ensure that only qualified individuals are licensed vocational nurses and psychiatric technicians by enforcing education requirements and standards of practice and by educating consumers of their rights.

Overview

The Board was established in 1951, and later, in 1959, merged with the Psychiatric Technician program to become the California Board of Vocational Nursing and Psychiatric Technicians. The jurisdiction of the Board is mandated by the Vocational Nursing Practice Act, Business and Professions (B&P) Code, Division 2, Chapter 6.5, Sections 2840-2895.5, and Psychiatric Technicians Law, B&P Code, Division 2, Chapter 10, Sections 4500-4548, which are implemented and enforced by the Board.

To achieve this mandate, the Board:

- Establishes the minimum requirements for examination and licensure.
- Establishes educational standards for the approval of Vocational Nursing (VN) and Psychiatric Technicians (PT) schools in California.
- Adopts regulations to clarify the performance, practice and disciplinary standards for its licensees.
- Enforces the regulations governing the continued approval of VN & PT schools in California.
- Enforces the regulations governing LVNs and PTs by taking appropriate disciplinary action against licensees efficiently and effectively.

Composition

Business and Professions Code sections 103, 2841, 2842, and 2843

The Board is composed of up to eleven members with a public member majority (i.e., 6 public members and 5 licensed members). Nine members are appointed by the Governor, one by the Speaker of the Assembly and one by the Senate Rules Committee. No member shall serve more than two consecutive full terms. One term is four years. Board Members serve in non-salaried positions, but are paid \$100 per diem for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

This procedure manual is updated as necessary and provided to Board members as a ready reference of important laws, regulations, Department policies and Board policies. It is designed to help guide the actions of the Board Members and inform the public.

CHAPTER 2: BOARD MEETING PROCEDURES

Frequency of Meetings

Business and Professions Code sections 2848, 2849, and 2850

The Board typically meets four times annually to make policy decisions, make decisions on disciplinary matters, and review committee recommendations. Special meetings may be held at any time as the Board may elect, or by the President of the Board, or at request of at least five members of the Board. Meetings may be held at any time and place by the written consent of all members of the Board.

The Board endeavors to hold meetings in different geographic locations throughout the state when possible as a convenience to the attending public and licensees.

Board Member Attendance at Board Meetings

Board Members are expected to attend Board and assigned Committee Meetings in their entirety. The entirety of a meeting shall mean from the date and time of the beginning of the meeting as set forth by the official agenda. A Board Member shall contact the Board President or Executive Officer as soon as possible when she or he is unable to attend a scheduled Board or Committee Meeting and ask to be excused for a specific reason.

Board Member Participation

Each Board Member is expected to be prepared and to participate in Board discussions and deliberations.

Any two “unexcused” absences in a calendar year will result in the Executive Committee’s evaluation and recommendation to the Governor or appointing authority for removal from the Board.

Public Notice/Information at Board Meetings

Government Code section 11120 et seq.

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of state bodies. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda. Any general discussion of examinations or disciplinary procedures shall be held in public.

The Board may meet in closed session to discuss examinations, deliberate on enforcement cases, discuss pending litigation, and review personnel issues where a public discussion would compromise the integrity of these subjects. If the agenda contains matters that, on advice of legal counsel, are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Board Members are expected to read and abide by the guidance provided by the Department of Consumer Affairs Legal Counsel. Board members are required to adhere to open meeting requirements as specified in the Bagley-Keene Open Meeting Act, which is available at the Department of Consumer Affairs Board Member website (www.dcamembers.ca.gov) in the publications section.

Quorum

Business & Professions Code section 2851

Six members of the Board constitute a quorum for transaction of business at any meeting of the Board. At a meeting duly held at which a quorum of six members or more are present, a concurrence of a majority of members of the Board present shall be necessary to constitute an act or decision of the Board.

Notice of Meetings

Government Code section 11125

As mandated by the Bagley-Keene Open Meeting Act, meeting notices (including agendas for Board meetings) must occur no later than 10 calendar days in advance of the meeting, including, but not exclusively, posted on the Board's website. The notice must include a staff person's name, work address and work telephone number to provide further information prior to the meeting.

The website should also include copies of all documents for review at the proposed meetings. In addition, any materials provided to Board Members in open session during the scheduled meeting should be added to the Board's website within 10 days following the meeting.

Agenda Items

Board Policy

Future agenda items are generally discussed and agreed upon at a full Board meeting. Agenda items for a Board meeting from any source, including Board members, must be submitted to the Executive Officer at least 30 days prior to the scheduled meeting. The Executive Officer may confer with the Board President prior to adding items to the meeting agenda.

Record of Board Meetings

Board Policy

The minutes are a summary, not a transcript, of each Board Meeting. They shall be prepared by Board staff and submitted for review and approval by Board Members as soon as possible following the actual meeting. Once approved, the minutes shall serve as the official record of the meeting.

Audio/Video Recording

Government Code section 11124.1 et seq. and Board Policy

The meeting may be audio/video recorded, and/or broadcast live via the Internet. Recordings may be disposed of upon Board approval of the minutes; broadcasts may be available in perpetuity.

Meeting Rules

Board Policy

The Board will use Robert's Rules of Order as a guide when conducting the meetings, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act).

Opportunity for Public Comment

Government Code sections 11125 and 11125.7

Every Board meeting agenda contains an agenda item that allows for public comment on matters not on the agenda. Board Members may not act or discuss matters presented by the public under these agenda items. The matter may be suggested for a future agenda item or for follow-up by Board staff.

Teleconference Meetings

Government Code Section 11123

Meetings held via teleconference are subject to the same notice requirements of the Open Meeting Act. The meeting notice must be published at least ten (10) days in advance and must include the physical location of each Board Member attending the meeting remotely. A Board member must be at a publicly noticed location. The public is permitted to attend the meeting at any of the locations listed on the meeting notice during an open session of the meeting. The public is not permitted to attend any part of the meeting that is designated as "closed session."

CHAPTER 3: TRAVEL & SALARY POLICIES / PROCEDURES

Travel Approval

Board Policy

Board members must have prior approval from the Board President for all reimbursed travel except for regularly scheduled Board and committee meetings to which the Board member is assigned.

The Board President and the Executive Officer must use the Board's annual budget and Department's Travel Guidelines when considering travel requests.

Travel Arrangements

Board Policy

When approved, Board members should attempt to make their own travel arrangements, including air, rental car and lodging. All travel must be booked using the Department of General Services' Statewide Travel Program, CalTravel Store at www.caltravelstore.com. Each Board member will work with a specified member of the administrative team to establish a travel booking profile.

Out-of-State Travel

State Administrative Manual section 700 et seq.

All out-of-state travel for persons representing the Board must be approved by the Board President and is ultimately controlled and approved by the Governor. Once approved for out-of-state travel, Board members will be reimbursed actual lodging expenses, supported by receipts, and will be reimbursed for meal and supplemental expenses according to current reimbursement rates. Travel prior to approval by the Governor restricts the member's ability to represent the Board, and is at the individual Board member's own risk and reimbursement may be denied.

Travel Claims

State Administrative Manual section 700 et seq.

All expenses are claimed using the CalATERS (California Automated Travel Expense Reimbursement System) Global." Each Board member will work with a designated member of the administrative team to set up a CalATERS Global account and designate a specified member of the administrative team as an authorized "preparer/submitter."

The Board member shall provide travel-related receipts and other necessary documentation to said "preparer/submitter" within 30 days of travel and/or work. After the expense claim has been prepared by the designated "preparer/submitter," the claim will be reviewed and approved by the designated approver and submitted to the travel unit for processing. Expenses for travel claims submitted after the end-of-fiscal-year deadline may not be reimbursed.

The Department's travel unit uses CalATERS Global to calculate standard mileage reimbursement. If travel includes side trips other than traveling direct from one point to another and returning, each stop must be itemized and an address included.

The Deputy Director of Board Relations approves the Board President's travel expense claims. The Board President shall approve the Executive Officer's and the Board members' travel claims after they have been reviewed and initialed by the Executive Officer. In the absence of the Board President, the Board Vice President shall approve the Executive Officer's and the Board members' travel claims.

Salary Per Diem

Business and Professions Code sections 103 and 2855

Compensation, salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by Business and Professions Code section 103. In relevant part, this section provides for the payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties" and provides that the Board Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties." Also relevant is the provision that states: "no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment."

Travel Reimbursement and Payment of Salary Per Diem

Business and Professions Code section 103 and Board Policy

The following general guidelines must be adhered to with respect to reimbursement of travel:

Attendance at events such as hearings, conferences, or meetings on behalf of the Board is to be approved in advance by the Board President and the Executive Officer. Board Members attending meetings or events to perform a substantially official service are paid per diem and reimbursed for travel-related expenses.

The term "day actually spent in the discharge of official duties" means such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting. Where it is necessary for a Board Member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

Unless it is an emergency, Board Members must get prior approval from the board President to leave a meeting early. Because the Board only meets approximately four times a year, Board Members are expected to make every effort to stay for the duration of the meeting and make their travel arrangements accordingly.

For Board-specified work, Board Members are compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at events, meetings, hearings, or conferences, or policy and case review activities. Preparation time is compensated when eight hours is accrued.

No public officer or state employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.

Board Members must submit time sheet summary forms for actual work performed outside a Board Meeting in order to be compensated.

CHAPTER 4: OTHER POLICIES / PROCEDURES

Appointment of Executive Officer

Business and Professions Code sections 107, 2933

The Board appoints an Executive Officer exempt from civil service.

Specific instructions for the Executive Officer from the Board Members regarding implementing policy matters shall be coordinated through the Board President.

Strategic Plan

The Board meets at least annually to review, evaluate, and update its strategic plan. The strategic plan shall include a mission statement, a vision statement and strategies to achieve goals, objectives, and critical success factors for each Board program. The plan should be re-evaluated and updated each year.

Improper/Unprofessional Board Member Conduct

Board Policy

A member may be censured by the Board if the Board determines that he/she has acted in an inappropriate manner while conducting Board business.

Removal of Board Members

Business & Professions Code sections, 106, 106.5, 2845

The Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty. Notwithstanding any other provision of law, the Governor may remove from office a member of a board or other licensing entity in the department if it is shown that such member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question or questions in advance of or during the examination to any applicant for that examination.

Resignation of Board Members

Government Code section 1750

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Director of the Department, the Board President and the Executive Officer.

Officers of the Board

Business and Professions Code section 2846; Government Code section 1750

The Board, annually at its first scheduled meeting in each year, shall elect a President and Vice President from among its members. The newly elected President and Vice President shall assume duties upon close of the meeting at which they were elected.

Officer Vacancies

Board Policy

If the office of the President becomes vacant, the Vice President assumes the office of the President on an interim basis and until election of officers at the next scheduled Board meeting.

Access to Board Files and Records

Board Policy

No Board Member may access a school, licensee, applicant, or complaint file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records must not be removed from the Board's office.

Communications with Other Organizations/Individuals

Board Policy

The Executive Officer, his/her designee or the Board President serves as spokesperson to the media or to any individual or organization on board actions, policies or any communication that is deemed sensitive or controversial. Any Board Member who is contacted by any of the above should terminate the contact and inform the Executive Officer or the Board President.

All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Executive Officer's office.

Rules for Contacting Staff

Board Procedure

In order to maintain a clear line of communication Board Members should only be in contact the following designated staff:

- Executive Officer - regarding all board business except travel and disciplinary votes.
- Administrative Analyst - regarding travel and per diem.
- Discipline Unit Manager - regarding disciplinary mail votes.
- DCA Legal Counsel - regarding disciplinary procedural questions or ethical questions.

Board members are encouraged to discuss any deviation from this policy with the Executive Officer in order to maintain the integrity of this policy.

Board Staff

Board Policy

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, all authority and responsibility for management of the civil service staff is delegated to the Executive Officer. Board Members shall not intervene or become involved in specific day-to-day Board office operations. However, the Board must hold the Executive Officer accountable for supervising all day-to-day operations.

Board Administration

Board Members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board Members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer under the supervision of the Board President.

Examination Preparation

Board Policy

Board Members shall not perform any function of examination development for the Board or the Department during their term as Board Members.

Correspondence

Board Policy

Originals of any correspondence received by Board Members regarding official Board business must be maintained in the Board's office files. Correspondence must be given to the Executive Officer.

Statement of Economic Interest

Government Code section 81000 et seq.

The Political Reform Act requires appointed Board Members to publicly disclose their personal assets and income. The Fair Political Practices Commission is the agency responsible for maintaining the Statement of Economic Interests Form 700. Board members must complete a Statement of Economic Interest when appointed, annually and when their appointment ends. Your Form 700 must be filed annually on or before April 1st, or you risk being sanctioned by the FPPC.

Ethics Training

Government Code section 11146 et seq.

Board Members are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive, members may either complete the interactive training on the website of the Office of the Attorney General, which can be found at oag.ca.gov/ethics. A Board administrative team member will coordinate with each Board Member to ensure timely compliance.

Sexual Harassment Prevention Training

Department Policy EEO 12-01

Board Members are required to undergo sexual harassment prevention training and education once every two years. A Board administrative team member will coordinate with each Board Member to ensure timely completion.

Contact with Licensees

Board Policy

Board Members must not intervene on behalf of a licensee or school for any reason; they should forward all contacts or inquiries to the Executive Officer.

Contact with Complainant/Respondent

Board Members must not directly participate in complaint handling and resolution or investigations. To do so would subject the Board Member to disqualification in any future disciplinary action against the licensee. If a Board Member is contacted by a complainant/respondent or his/her attorney, the Board Member should refer the individual to the Executive Officer.

Gifts from Applicants, Registrants, or Licensees of the Board

Board Policy

Gifts of any kind to Board Members from schools, or applicants, registrants or licensees of the Board are not permitted.

Conflict of Interest

Government Code section 87100

No Board Member may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest. Any Board Member who has a financial interest shall disqualify himself/herself from making or attempting to use his/her official position to influence the decision. Any Board Member who feels he/she is entering into a situation where there is a potential for conflict of interest should immediately consult the Executive Officer or Board President.

Board Policy

It is a conflict of interest for a Board Member to seek office in a professional association or to actively sponsor or support others seeking office in such associations, to use his or her position as a Board Member to further one's own personal interest or concerns, discuss confidential Board business with anyone except other Board members and Board staff, or to publicly espouse opinions on behalf of the Board without specific Board approval to do so.

Performance Appraisal of the Executive Officer***Memo OHR 2/14/13; Government Code section 11126(a) and Board Policy***

The Board evaluates its Executive Officer on an annual basis. Approximately two months before the meeting, the Board President will direct that all Board Members receive a copy of the evaluation form with instruction to complete their evaluations individually and forward them directly to the Board President. The Board President will review all evaluations and collate the ratings and comments, for all Board Members to review.

Each year, the matter of the Executive Officer evaluation will be placed on the agenda. The Board Members will meet first in closed session to determine what action, if any, needs to be taken. The Board Members will then meet with the Executive Officer to discuss the appraisal. Further actions will be taken in accordance with the Open Meeting Act.

Government Code section 11126

Matters relating to the performance of the Executive Officer are discussed by the Board in closed session unless the Executive Officer requests that it be discussed in open session.

Board Member Orientation Training***Business and Professions Code section 453***

Every newly appointed Board Member shall, within one year of assuming office, complete the training and orientation program offered by the Department regarding, among other things, his/her functions, responsibilities, and obligations as a Board Member.

Objective of the program is to understand:

- Separate roles of the Executive Officer, the Board, Board Members, and Board staff,
- Conflicts of interest,
- Importance of completing and filing the annual Statement of Economic Interest Form 700 and taking mandatory training,
- Bagley-Keene Open Meeting Act,
- Board Member roles in the policy making process, and
- Discipline process and Board members' role as "judge."

CHAPTER 5: DUTIES OF THE BOARD PRESIDENT AND VICE-PRESIDENT

Board President

It is the role of the President to:

- Preside at open/closed session Board meetings and official regulation hearings,
- Assure that agenda timeframes are followed,
- Appoint chairpersons of all committees, define the responsibilities of the chairpersons, and make committee appointments,
- Assure that all Board Members adhere to all Board policies,
- Serve as delegate or alternate delegate to state and national associations or appoint another Board Member to serve in such capacity,
- Represent the Board in communications relating to Board action or policy or designate another Board Member to represent him/her if necessary,
- Approve or disapprove Board members' travel other than regularly scheduled Board meetings; such approval shall not to be unreasonably withheld,
- Assume responsibilities usually vested in or customarily incident to the office of President and otherwise prescribed by law,
- Make decisions respecting emergency or urgent matters between meetings of the Board,
- Sign decisions and rulings of the Board and minutes after approval by the Board,
- Serve as liaison between the Board and Department's Deputy Director of Board Relations, and
- Serve as immediate supervisor of the Executive Officer.

Vice-President

The Vice-President acts in the absence of the President. The Vice-President shall perform all of the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President.

CHAPTER 6: EXECUTIVE OFFICER

Appointment

The Board appoints an Executive Officer who is exempt from civil service and serves at the pleasure of the Board.

Role

The Executive Officer is the Board's Chief Executive Officer. He or she implements the policies developed by the Board.

Recruitment

The Board must institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It must also utilize proven equal employment opportunity and personnel recruitment procedures.

Selection

A qualified candidate for Executive Officer must demonstrate the ability to supervise employees and handle conflict resolution and complaint mediation. The Executive Officer must also demonstrate effective written and verbal communication skills and have knowledge and expertise in the areas of legislation, regulations, administration, examination, licensing, enforcement, legislation and budgets.

The selection of a new Executive Officer is included as an item of business, which must be included in a written agenda and transacted at a public meeting.

CHAPTER 7: BOARD COMMITTEES

Standing Committees

Committees serve as an essential component of the full Board to address specific issues referred by the public or recommended by staff. The present committee structure does not require a quorum because any decision of the committee must be voted on by the full Board to become policy. The committees are typically composed of two Board Members who are charged with gathering public input; exploring alternative approaches to issues; analyzing the data collected; and making a recommendation to the full Board.

The Board has eight standing committees:

- **Executive Committee** – Created to develop policies and make recommendations to the full Board on matters regarding attendance and standards of conduct for the Board Members and issues regarding the Executive Officer.
- **Education Committee** – Created to solicit public input when addressing issues regarding approval, curriculum, education and practice requirements for LVNs and PTs.
- **Enforcement Committee** – Created to evaluate the functions and performance of the Enforcement Division. The Committee reviews and evaluates statistical reports and trends in workload to assess performance.
- **Evaluation Committee** – Created to advise the Board on matters regarding approval through different licensing methods, continuing education and competency to impact licensee candidate profile and national standards. Makes recommendations to Board to improve national ratings.
- **Legislative and Regulation Committee** – Created to review proposed and pending legislative and regulatory changes impacting the Board and develop Board positions. Committee members, the Executive Officer and staff represent the Board at legislative hearings.
- **Licensing Committee** – Created to develop strategies to improve customer service through improved processes.
- **Practice Committee** – Created to review the current scope of practice and advocate for preserving existing scope of practice in the face of competing priorities.
- **Strategic Outreach Committee** – Created to develop opportunities to engage stakeholders to achieve Board goals and objectives.

Internal organization of each committee is at the President's discretion except as specified in this manual. Committee meetings are generally held in conjunction with regularly scheduled Board meetings and are fully within the scope of the Open Meeting Act.

Committee Appointments

The Board President determines committee composition, whether standing or ad hoc; however, committee members may make recommendations for new members.

Committee members' terms expire at the discretion of the Board President.

Ad hoc committees will be established by the Board as needed. Members and the chairperson will be appointed by the President. Ad hoc committees may include the appointment of non-Board Members.

Report of Committee Meetings

Each committee chair provides a report to the full Board at its regularly scheduled Board meeting. The Board can approve the committee report with any and all of the recommendations contained in the report, or approve a portion of the report, and discuss certain items and vote on them separately.

