

**State of California
Office of Administrative Law**

In re:

**Board of Vocational Nursing and Psychiatric
Technicians**

Regulatory Action:

Title 16, California Code of Regulations

**Adopt sections: 2504.1, 2517.5, 2564.1,
2575.5**

Amend sections: 2537, 2540.6, 2590, 2592.6

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

Government Code Section 11349.6

OAL File No. 2008-1230-03 E

Bureau of Vocational Nursing and Psychiatric Technicians proposes emergency adoption of title 16 regulations to require submission of fingerprints and the disclosure of any convictions as a condition of license renewal or reactivation. Related licensing and renewal fees will increase to cover the staffing costs and enforcement activities associated with these requirements.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 1/9/2009 and will expire on . The Certificate of Compliance for this action is due no later than 7/8/2009.

Date: 1/9/2009



Richard L. Smith
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Teresa Bello-Jones
Copy: Sophia Cornejo

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2008-1230-03E
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For use by Office of Administrative Law (OAL) only

<p style="text-align: center;">2008 DEC 30 4:12:04</p> <p style="text-align: center; font-weight: bold;">OFFICE OF ADMINISTRATIVE LAW</p>	<p style="text-align: center;">2008 JAN -9 PM 1:38</p>
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
 Department of Consumer Affairs/Bureau of Vocational Nursing and Psychiatric Technicians

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fingerprinting/Fees Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT <i>RS/OAL</i> VN: 2504.1, 2517.5; PT: 2564.1, 2575.5 REPEAL <i>RS/OAL</i> VN: 2537, 2540.6; PT: 2590, 2592.6
TITLE(S) 16	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
 n/a

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Sophia Cornejo	TELEPHONE NUMBER (916) 263-7848	FAX NUMBER (Optional) (916) 263-7859	E-MAIL ADDRESS (Optional) sophia_cornejo@dca.ca.gov
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8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Scott Reid</i>	DATE 12/18/08
TYPED NAME AND TITLE OF SIGNATORY GARRIE LOPEZ, Director of Consumer Affairs <i>Scott Reid, Chief Deputy Director of Consumer Affairs</i>	

Form 400 revisions authorized in 1-9-04 BVNPT memo.
RS/OAL

Bureau of Vocational Nursing and Psychiatric Technicians

ORDER OF ADOPTION

VOCATIONAL NURSING REGULATIONS

(1) Adopt Section 2504.1 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 1. General Provisions

2504.1. Response to Board Inquiry.

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Sections 2841.1 and 2854, Business and Professions Code. Reference: Sections 144, 2847, 2854, 2875, 2878, and 2878.6, Business and Professions Code; and Section 11105, Penal Code.

(2) Adopt Section 2517.5 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 4. Licenses

2517.5. Fingerprint and Disclosure Requirements for Renewal of License.

(a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) A licensee shall certify on the renewal form whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.

(4) A licensee shall retain, for at least three years from the renewal date,

either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose on the renewal form whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against his or her license.

(c) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority: Sections 144, 2841.1, 2854, Business and Professions Code. Reference: Sections 144, 2841.1, 2854, 2878, 2878.6, 2878.8, 2892.1, and 2892.3, Business and Professions Code; and Section 11105, Penal Code.

(3) Amend Section 2537 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

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).

(b) The re-examination application fee (for any examination after the first) is seventy-five dollars (\$75).

(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.

(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). The initial license fee on or after July 1, 2009, 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 dollars (\$10).

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.

(4) Amend Section 2540.6 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 7. Continuing Education

2540.6. Inactive Licenses.

- (a) A license will be placed on inactive status when the renewal fee is paid and continuing education requirements have not been met.
- (b) To reactivate an inactive license the licensee must submit proof of thirty hours of continuing education taken during the preceding two years and furnish a full set of fingerprints as required by section 2517.5.

NOTE: Authority cited: Sections 2841.1 and 2854, Business and Professions Code. Reference: Sections 144, 700, 701, 703, 704, 2854, 2875, 2878, and 2892.5, Business and Professions Code; and Section 11105, Penal Code.

PSYCHIATRIC TECHNICIAN REGULATIONS

(1) Adopt Section 2564.1 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 2. Application for License

2564.1. Response to Board Inquiry.

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Sections 4501.1, 4503, and 4504, Business and Professions Code. Reference: Sections 125.9, 144, 4503, 4510, 4511, 4521, 4521.2, and 4523, Business and Professions Code; and Section 11105, Penal Code.

(2) Adopt Section 2575.5 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 4. Licenses

2575.5. Fingerprint and Disclosure Requirements for Renewal of License.

(a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

- (1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
- (2) A licensee shall certify on the renewal form whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.
- (3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country.
- (4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, an applicant for renewal shall disclose on the renewal form whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against his or her license.

(c) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Sections, 144, 4501.1 and 4504, Business and Professions Code. Reference: Sections 144, 4503, 4515, 4521, 4521.6 4544, and 4545, Business and Professions Code; and Section 11105, Penal Code.

(3) Amend Section 2590 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 6. Revenue

2590. Fees.

The following fees are established:

- ~~(a) The application fee is twenty five dollars (\$25).~~
- ~~(b) The biennial renewal fee is ninety dollars (\$90). The delinquent fee is 50% of the renewal fee in effect at the time of renewal.~~
- ~~(c) Notwithstanding subsection (b), licensees shall renew according to the following schedule:
 - ~~(1) In 1992, for licensing periods beginning on or after July 1, 1992, licensees with an even birth year shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90). Licensees with an odd birth year shall renew for one year and the annual renewal fee shall be forty five dollars (\$45).~~
 - ~~(2) In 1993, licensees with an odd birth year shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90). Licensees with an even birth year who were initially licensed or renewed between January 1, 1992 and June 30, 1992 shall renew for one year and the renewal fee shall be forty five dollars (\$45).~~
 - ~~(3) On or after January 1, 1994, all renewing licensees shall renew for two years and the biennial renewal fee shall be ninety dollars (\$90).~~~~
- ~~(d) The reexamination fee for any examination after the first is thirty five dollars (\$35).~~

~~(e) For licensing periods beginning on or after July 1, 1992, the fee for an initial license shall be ninety dollars (\$90). Licenses shall expire at two year intervals on the last day of the month in which the licensee's birthday occurs, beginning with the second birthday following the date on which the license was issued.~~

~~(f) The penalty fee for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the Board is ten dollars (\$10).~~

The following fees are established:

(a) The fee to be paid upon the filing of an application is one hundred dollars (\$100).

(b) The re-examination application fee (for any examination after the first) is one hundred dollars (\$100).

(c) For a license that expires on or after July 1, 2009, the biennial renewal fee is three hundred dollars (\$300).

(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 dollars (\$10).

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.

(4) Amend Section 2592.6 of Division 25 of Title 16 of the California Code of Regulations, to read as follows:

Article 7. Continuing Education

2592.6. Inactive Licenses.

(a) A license will be placed on inactive status when the renewal fee is paid and continuing education requirements have not been met.

(b) To reactivate an inactive license the licensee must submit proof of thirty hours of continuing education taken during the preceding two years and furnish a full set of fingerprints as required by section 2575.5.

NOTE: Authority cited: Sections 4501.1 and 4504, Business and Professions Code.
Reference: Sections 144, 700, 701, 703, 704, 4503, 4517, and 4521, Business and Professions Code; and Section 11105, Penal Code.

(1/9/2009)