

# Board of Vocational Nursing and Psychiatric Technicians

## PROPOSED LANGUAGE

### Vocational Nursing Regulations

#### **2520.5. Employer Mandatory Reporting.**

Employers of licensed vocational nurses shall report, in writing, to the Board the rejection from assignment, suspension, ~~or~~ termination, or resignation for cause (as defined in Business and Professions Code Section 2878.1(e)) of any licensed vocational nurse in its employ. The resignation for cause provision only applies to a licensed vocational nurse's resignation submitted in lieu of receiving a rejection from assignment, suspension, or termination for cause (as defined in Business and Professions Code Section 2878.1 (d)). An employment agency or nursing registry shall report to the board the rejection from assignment of a licensed vocational nurse by a health facility or home health care provider due to acts that would be cause for suspension or termination (as defined in Business and Professions Code Section 2878.1 (d)). The report shall be made within 30 calendar days from the effective date of the suspension, ~~or~~ termination, or resignation for cause, or, where a licensee was rejected from assignment, within 30 calendar days from the date the health facility or home health care provider first notified the employment agency or nursing registry of the rejection. Failure to make a report to the Board as required under this section shall constitute a violation of Business and Professions Code Section 2878.1.

For purposes of this section, "employer" also includes employment agencies and nursing registries.

Note: Authority cited: Sections 2854, Business and Professions Code. Reference: Sections 2859, 2878, 2878.1, and 2878.5, Business and Professions Code.

#### **2523.2. Violation Classifications.**

- (a) There shall be three classes of violations:
- (1) Class "A";
  - (2) Class "B"; and
  - (3) Class "C."
- (b) In determining the violation class for licensee violations, the following factors shall be considered:
- (1) Nature and severity of the violation.
  - (2) Length of time that has passed since the date of the violation.
  - (3) Consequences of the violation, including potential or actual patient harm.
  - (4) History of previous violations of the same or similar nature.
  - (5) Evidence that the violation was willful.
- (c) The fine for each Class "A" violation shall not exceed \$10,000 per violation. A Class "A" violation is the failure of an employer to report to the Board, as specified in Section 2520.5, the rejection from assignment, suspension, ~~or~~ termination, or resignation for cause of a licensed vocational nurse.
- (d) The fine for each Class "B" violation shall be no less than \$1,001 and no more than \$2,500. A Class "B" violation includes:

- (1) A violation that results in or could have resulted in patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure consumer safety. Such violations include but are not limited to patient abandonment and falsifying nursing notes;
  - (2) Any violation that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care. Such violations include, but are not limited to, a violation committed for personal and/or financial gain, or fraud;
  - (3) A minor or technical violation that continues for six months or more in duration; or
  - (4) A minor or technical violation with one or more Class "C" citations.
- (e) The fine for each Class "C" violation shall not exceed \$1,000. A Class "C" violation is a minor or technical violation that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care and which continues for less than six months duration. Such violations include but are not limited to practicing with an expired license, precharting, charting errors, or verbal abuse.
- (f) Notwithstanding the administrative fine amounts specified in subsections (d) and (e), a Class B or Class C citation may include a fine of no more than \$5,000 if one or more of the following circumstances apply:
- (1) The cited person has a history of two or more prior citations of the same or similar violations.
  - (2) The citation involves a violation that has a substantial risk to the health and safety of another person.
  - (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
  - (4) The citation involves a violation perpetrated against an elder, disabled, or dependent person.

Note: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code. Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

# Board of Vocational Nursing and Psychiatric Technicians

## PROPOSED LANGUAGE

### Psychiatric Technicians Regulations

#### **2577.6. Employer Mandatory Reporting.**

Employers of psychiatric technicians shall report, in writing, to the Board the rejection from assignment, suspension, ~~or termination~~, or resignation for cause (as defined in Business and Professions Code Section 4521.2(~~ed~~)) of any psychiatric technician in its employ. The resignation for cause provision only applies to a psychiatric technician's resignation submitted in lieu of receiving a rejection from assignment, suspension, or termination for cause (as defined in Business and Professions Code Section 4521.2 (d)). An employment agency or nursing registry shall report to the board the rejection from assignment of a psychiatric technician by a health facility or home health care provider due to acts that would be cause for suspension or termination (as defined in Business and Professions Code Section 4521.2 (d)). The report shall be made within 30 calendar days from the effective date of the suspension, ~~or termination~~, or resignation for cause, or, where a licensee was rejected from assignment, within 30 calendar days from the date the health facility or home health care provider first notified the employment agency or nursing registry of the rejection. Failure to make a report to the Board as required under this section shall constitute a violation of Business and Professions Code Section 4521.2.

For purposes of this section, "employer" also includes employment agencies and nursing registries.

Note: Authority cited: Sections 4504, Business and Professions Code. Reference: Sections 101.6, 108, 4502, 4503, 4520, 4521, and 4521.2(b), Business and Professions Code.

#### **2579.4. Violation Classifications.**

- (a) There shall be three classes of violations:
  - (1) Class "A";
  - (2) Class "B"; and
  - (3) Class "C."
- (b) In determining the violation class for licensee violations, the following factors shall be considered:
  - (1) Nature and severity of the violation.
  - (2) Length of time that has passed since the date of the violation.
  - (3) Consequences of the violation, including potential or actual patient harm.
  - (4) History of previous violations of the same or similar nature.
  - (5) Evidence that the violation was willful.
- (c) The fine for each Class "A" violation shall not exceed \$10,000 per violation. A Class "A" violation is the failure of an employer to report to the Board, as specified in Section 2577.6, the rejection from assignment, suspension, ~~or termination~~, or resignation for cause of a psychiatric technician.
- (d) The fine for each Class "B" violation shall be no less than \$1,001 and not more than \$2,500. A Class "B" violation includes:

- (1) A violation that results in or could have resulted in patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure consumer safety. Such violations include but are not limited to patient abandonment and falsifying nursing notes;
  - (2) Any violation that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care. Such violations include, but are not limited to, a violation committed for personal and/or financial gain, or fraud;
  - (3) A minor or technical violation that continues for six months or more in duration; or
  - (4) A minor or technical violation with one or more Class "C" citations.
- (e) The fine for each Class "C" violation shall not exceed \$1,000. A Class "C" violation is a minor or technical violation that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care and which continues for less than six months duration. Such violations include but are not limited to practicing with an expired license, precharting, charting errors, or verbal abuse.
- (f) Notwithstanding the administrative fine amounts specified in subsections (d) and (e), a Class B or Class C citation may include a fine of no more than \$5,000 if one or more of the following circumstances apply:
- (1) The cited person has a history of two or more prior citations of the same or similar violations.
  - (2) The citation involves a violation that has a substantial risk to the health and safety of another person.
  - (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
  - (4) The citation involves a violation perpetrated against an elder, disabled, or dependent person.

Note: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code. Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.