

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

FINAL STATEMENT OF REASONS

Hearing Date: October 2, 2012

Subject Matter of Proposed Regulations:

Section(s) Affected: Amend Title 16, Division 25, of the California Code of Regulations as follows:

Vocational Nurse (VN): Amend sections 2520.5, 2523.2

Psychiatric Technician (PT): Amend sections 2577.6, 2579.4

Updated Information

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The Board of Vocational Nursing and Psychiatric Technicians (Board) received two (2) written comments dated September 27, 2012, and October 2, 2012. Those comments and the Board's responses are detailed under "Objections or Recommendations/ Responses."

On October 2, 2012, a public hearing was conducted at the Board for Professional Engineers & Land Surveyors' conference room, 2535 Capitol Oaks Drive (Third Floor), Sacramento, California. The Board received no testimony during the public hearing.

As a result of there not being any objections or recommendations received during the public comment period, the proposed action's originally noticed text was not modified.

The Effect on Small Business section, as outlined in the Notice of Proposed Changes, has been updated to incorporate the impact to typical businesses as well. Please refer to the Small/Typical Business Impact section below.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small/Typical Business Impact

The Board has determined that the proposed regulations would only affect small and/or typical businesses that are employers of LVNs and/or PTs. Any employer of a LVN or PT must comply with reporting to the Board the suspension or termination for cause,

resignation for cause, or rejection from assignment for cause for any LVN or PT in its employ, or be subject to an administrative fine of up to \$10,000.

However, there is no direct cost associated with compliance with the reporting requirement.

Considerations of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The alternatives which were considered are as follows:

1. Not adopt the regulations. This alternative was rejected because the regulatory proposal is based on statutory requirements.
2. Adopt the regulations. The Board determined that this alternative is the most feasible because the regulatory proposal will enhance consumer protection.

Objections or Recommendations/Responses

RESPONSES TO WRITTEN COMMENTS TO LANGUAGE INITIALLY NOTICED ON AUGUST 17, 2012. (Copies of written comments are located under tab VII and correspond to the numerical sequence indicated below.)

Summary Written Comment #1: Pamila Lew, Staff Attorney, Disability Rights California:

Disability Rights California supports the proposed regulatory amendments.

Response #1: The Board accepts this comment.

Summary Written Comment #2: Bonnie Castillo, Director, Government Relations, California Nurses Association:

California Nurses Association finds the proposed modifications to be consistent with the statutory requirements of SB 539. (It should be noted that, although the subject line in the California Nurses Association letter correctly references SB 539, there are transposition errors within the body of the letter. SB 359, which is referenced throughout the letter, is clearly in error because SB 359 is unrelated to the Board's proposed regulatory amendments. It addresses a Health and Safety Code amendment dealing with hospital billing for emergency services and care.)

Response #2: The Board accepts this comment.

NO ORAL OR WRITTEN COMMENTS WERE RECEIVED DURING THE PUBLIC HEARING HELD-ON OCTOBER 2, 2012.

Nonduplication

Duplication in the proposed amendments of provisions from sections 2878.1 and 4521.2 of the Business and Professions Code are necessary to satisfy the “clarity” standard in Government Code section 11349.1(a)(3). As such, the Board excerpted key ideas and phrases from the statutory provisions to bolster the proposed regulatory language and to more fully advise, clarify and reinforce the conditions to which the Employer Mandatory Reporting requirements apply. It is the Board’s goal to set forth meaningful regulatory guidelines for its licensees and employers of its licensees and continually seek out opportunities to increase consumer protection whenever possible.