

Agenda Item #12.B.



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

BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
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DATE: May 1, 2014

TO: Board Members

FROM: 
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Supervising Nursing Education Consultant

SUBJECT: Proposed Regulatory Action to Amend California Code of Regulations Sections 2526.1 (VN) and 2581.1 (PT), Provisional Approval, and Sections 2530 (VN) and 2585 (PT) General Requirements

STATEMENT OF ISSUES

Pursuant to Business & Professions Code (BPC), Sections 2841.1 (VN) and 4501.1 (PT) the Board is mandated to protect California consumers by ensuring the education, licensure, and practice of vocational nurses and psychiatric technicians. Such individuals are required to demonstrate possession of the minimum level of competence required for safe and effective client care upon entry into professional practice.

Existing statutes authorize the Board to establish educational requirements for all vocational nurses (VN) and psychiatric technicians (PT) programs. Additionally, the Board is authorized to inspect such programs to determine compliance with prescribed standards. For those schools for which noncompliance is identified, the Board is authorized to provide written notice of the deficiency and required corrections. If the deficiency remains uncorrected, the Board is authorized to remove the school from the list of approved programs.

Existing regulations specify the Board's requirements for all VN and PT programs and authorize the Board to place programs on provisional approval for the failure to meet prescribed requirements. Said regulations also specify terms to which such programs must adhere to achieve full approval status.

Revision of existing regulations is required to achieve clarity and improve the probability of correction of program deficiencies.

BACKGROUND AND SUBJECT REVIEW

On June 1, 2000, the Board adopted regulations establishing specific terms relative to programs on provisional approval. Provisional approval denotes a VN or PT program's noncompliance with requirements set forth in California Code of

Regulations (Code), Division 25 Chapter 1, Article 5 (VN) or Chapter 2, Article 5 (PT). The Board's goal remains consumer protection through the education of safe and competent VNs and PTs. Consumers include clients, families, and students enrolled in VN and PT programs.

Existing regulations prescribe required educational content for all VN and PT program curricula. Additionally, current regulations specify terms for the admission of students. Pursuant to Sections 2530 (VN) and 2585 (PT) of the Code, programs are required to obtain prior Board approval to increase the number of students per class or increase the frequency of admissions. Further, VN and PT programs are required to maintain a minimum average annual pass rate that is no more than ten (10) percentage points below the State average annual pass rate for first – time candidates of approved VN and PT schools for the same period. A program's failure to maintain the required average annual pass rate for two (2) years or eight (8) consecutive quarters may constitute cause for placement of the program on provisional approval.

An analysis of programs on provisional approval and the program's ability to correct identified deficiencies and obtain full approval has been completed. Information obtained thereto confirms that the probability of success in improving the quality of instruction and correcting noncompliant program pass rates increases markedly with decreased numbers of students admitted.

The Board's goal remains consumer protection. Revision of existing regulations is required to achieve clarity and strengthen the terms of provisional approval.

Recommendations:

1. Approve the regulatory proposal to amend California Code of Regulations, Title 16, Division 25, Chapter 1, Article 5, Sections 2526.1 (d), 2526.1 (e), and 2530 (l).
2. Approve the regulatory proposal to amend California Code of Regulations, Title 16, Division 25, Chapter 2, Article 5, Sections 2581.1 (d), 2581.1 (e), and 2585 (l).
3. Direct staff to submit the Rulemaking File to the Department of Consumer Affairs and to the Office of Administrative Law.
4. Authorize the Executive Officer to make non – substantive changes as are required by the Director of the Department of Consumer Affairs and the Office of Administrative Law.

Attachment A: Proposed Regulatory Language to Amend California Code of Regulations Title 16, Division 25, Chapter 1, Article 5, Sections 2526.1 (d), 2526.1 (e), and 2530(l).

Attachment B: Proposed Regulatory Language to Amend California Code of Regulations Title 16, Division 25, Chapter 2, Article 5, Sections 2581.1 (d), 2581.1 (e), and 2585 (l).

Agenda Item #12.B.Attachment A

CALIFORNIA CODE OF REGULATIONS Title 16. Professional and Vocational Regulations

Division 25. Board of Vocational Nursing And Psychiatric Technicians

Vocational Nursing Regulations

Amend California Code of Regulations Title 16, Division 25, Chapter 1, Article 5, Sections 2526.1 (d) and 2530 (l) to read as follows.

Article 5. Schools of Vocational Nursing

2526.1. Provisional Approval.

- (a) Provisional approval means a program has not met all requirements as set forth in this Chapter and in Chapter 6.5, Division 2 of the Business and Professions Code.
- (b) Provisional approval shall be granted for a period determined by the Board.
- (c) The Board may place any program on provisional approval when that program does not meet all requirements as set forth in this Chapter and in Section 2526. If the program has not met all requirements at the end of the initial provisional approval period, provisional approval may be extended if the program demonstrates to the satisfaction of the Board a good faith effort to correct all deficiencies.
- (d) Any program holding provisional approval may not admit "new" classes

without prior approval by the Board.

- (e) A program placed on provisional approval shall receive written notification from the Board. The notification to the program shall include specific areas of noncompliance and requirements for correction. A program's failure to correct delineated areas of noncompliance is cause for revocation of provisional approval. **Failure to comply with any required corrections, or the commission of additional violations during a period of provisional approval, shall be grounds for revocation of approval.**
- (f) A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for revocation of provisional approval.

- (g) A program whose provisional approval has been revoked shall be removed from the Board's list of approved programs. The status of students as potential applicants for licensure will be determined by the Board.
- (h) A program that is removed from the Board's list of approved programs subsequent to Board action based on the program's non-compliance with applicable regulations shall not reapply to establish a vocational nursing program for a minimum period of one calendar year.

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2880, 2881 and 2883, Business and Professions Code.

2530. General Requirements.

- (a) The program shall have sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory and equipment to achieve the program's objectives.
- (b) Regular faculty meetings shall be held. Minutes shall be available to the Board's representative.
- (c) Clinical faculty shall have no other responsibilities during the hours assigned to the instruction of students.
- (d) Each teacher assistant shall work under the direction of an approved instructor. No more than one teacher assistant may be assigned to each instructor. Each teacher assistant shall assist the instructor in skills lab and clinical teaching only. The instructor to whom the teacher assistant is assigned shall be available to provide direction to the teacher assistant as needed.
- (e) Each instructor shall have a daily lesson plan which correlates the theory and practice offered to the student. A copy of this plan shall be available to the director.
- (f) The program's instructional plan shall be available to all faculty.
- (g) Each school shall have on file proof that each enrolled student has completed a general education course of study through the 12th grade or evidence of completion of the equivalent thereof. Equivalency is determined by the Department of Education in any of the United States or by a nationally-recognized regional accrediting body.
- (h) Each school shall have an attendance policy approved by the Board. The policy shall include but not be limited to, criteria for attendance and the specific course objectives for which make-up time is required. Acceptable methods for make-up include:
 - (1) Theory: case studies, independent study, written examination, attendance at seminars or workshops, auto-tutorial laboratory, and research reports.
 - (2) Clinical: performance evaluation in skills laboratory or additional time in the clinical area with clients/patients.

- (i) The school shall evaluate student performance to determine the need for remediation or removal from the program.
- (j) Each school shall advise students, in writing, of the following:
 - (1) Right to contact the Board of program concerns.
 - (2) Credit for previous education and experience.
 - (3) School's grievance policy.
 - (4) List of Board approved clinical facilities.
- (k) The program shall have prior Board approval to increase the number of students per class and/or increase the frequency of admission of classes. Criteria to evaluate a school's request to increase the number of students per class and/or increase the frequency of class admissions include but are not limited to:
 - (1) Sufficient program resources as specified in Section 2530(a).
 - (2) Adequacy of clinical experience as specified in Section 2534.
 - (3) Licensure examination pass rates as specified in Section 2530(f).
- (l) The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate for first time candidates of approved vocational nursing schools for the same period.
 - (1) Failure to maintain the required yearly average minimum pass rate may be cause to place a program on provisional approval.

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2866, 2881 and 2882, Business and Professions Code.

Agenda Item #12.B.Attachment B

CALIFORNIA CODE OF REGULATIONS Title 16. Professional and Vocational Regulations

Division 25. Board of Vocational Nursing And Psychiatric Technicians

Psychiatric Technician Regulations

Amend California Code of Regulations Title 16, Division 25, Chapter 2, Article 5, Sections 2581.1 (d), and 2585(l) to read as follows.

Article 5. Schools for Preparation of Psychiatric Technicians

2581.1. Provisional Approval.

- (a) Provisional approval means a program has not met all requirements as set forth in this Chapter and in Chapter 10, Division 2 of the Business and Professions Code.
- (b) Provisional approval shall be granted for a period determined by the Board.
- (c) The Board may place any program on provisional approval when that program does not meet all requirements as set forth in this Chapter and in Section 2581. If the program has not met all requirements at the end of the initial provisional approval period, provisional approval may be extended if the program demonstrates to the satisfaction of the Board a good faith effort to correct all deficiencies.
- (d) Any program holding provisional approval may not admit "new" classes

without prior approval by the Board.

- (e) A program placed on provisional approval shall receive written notification from the Board. The notification to the program shall include specific areas of noncompliance and requirements for correction. A program's failure to correct delineated areas of noncompliance is cause for revocation of provisional approval. **Failure to comply with any required corrections, or the commission of additional violations during a period of provisional approval, shall be grounds for revocation of approval.**

- (f) A material misrepresentation of fact by a psychiatric technician program in any information submitted to the Board is cause for revocation of provisional approval.
- (g) A program whose provisional approval has been revoked shall be removed from the Board's list of approved programs. The status of students as potential applicants for licensure will be determined by the Board.
- (h) A program that is removed from the Board's list of approved programs subsequent to Board action based on the program's non-compliance with applicable regulations shall not reapply to establish a psychiatric technician program for a minimum period of one calendar year.

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4511, 4515 and 4532, Business and Professions Code.

2585. General Requirements.

- (a) The program shall have sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory, and equipment to achieve the program's objectives.
- (b) Regular faculty meetings shall be held. Minutes shall be available to the Board's representative.
- (c) Clinical faculty shall have no other responsibilities during the hours they are assigned to the clinical instruction of students.
- (d) Each teacher assistant shall work under the direction of an approved instructor. No more than one teacher assistant may be assigned to each instructor. Each teacher assistant shall assist the instructor in skills lab and clinical teaching only. The instructor to whom the teacher assistant is assigned shall be available to provide direction to the teacher assistant as needed.
- (e) Each instructor shall have a daily lesson plan which correlates the theory and practice offered to the student. A copy of this plan shall be available to the director.
- (f) The program's instructional plan shall be available to all faculty.
- (g) Each school shall have on file proof that each enrolled student has completed a general education course of study through the 12th grade or evidence of completion of the equivalent thereof. Equivalency is determined by the Department of Education in any of the United States or by a nationally recognized regional accrediting body.
- (h) Each school shall have an attendance policy approved by the Board. The policy shall include but not be limited to, criteria for attendance and the specific course objectives for which make-up time is required. Acceptable methods for make-up include:
 - (1) Theory: case studies, independent study, written examination, attendance at seminars or workshops, auto-tutorial laboratory, and research reports.

- (2) Clinical: performance evaluation in skills laboratory or additional time in the clinical area with clients/patients.
- (i) The school shall evaluate student performance to determine the need for remediation or removal from the program.
- (j) Each school shall advise students, in writing, of the following:
 - (1) Right to contact the Board of program concerns.
 - (2) Credit for previous education and experience.
 - (3) School's grievance policy.
 - (4) List of Board approved clinical facilities.
- (k) The program shall have prior Board approval to increase the number of students per class and/or increase the frequency of admission of classes. Criteria to evaluate a school's request to increase the number of students per class and/or increase the frequency of class admissions include but are not limited to:
 - (1) Sufficient program resources as specified in Section 2585(a);
 - (2) Adequacy of clinical experience as specified in Section 2588.
 - (3) Licensure examination pass rates as specified in Section 2585(l).
- (l) The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate for first time candidates of approved psychiatric technician schools for the same period.
 - (1) Failure to maintain the required yearly average minimum pass rate may be cause to place a program on provisional approval.

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4511 and 4515, Business and Professions Code.