



DATE: November 5, 2014

TO: Board Members

FROM:

for *Marilyn Kumble*
Alice DeVey-Williams
Enforcement Program Manager

SUBJECT: Proposed Regulatory Action to Amend California Code of Regulations Section(s) 2517.5 (VN) and 2575.5 (PT), Fingerprint and Disclosure Requirements for Renewal of License

STATEMENT OF ISSUE

The Board is mandated to protect consumers from licensees who practice in an unsafe, incompetent, or impaired manner. In accordance with Business and Professions Code, section 2841.1 and 4501.1, protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions.

As a condition of licensure renewal, a vocational nurse or psychiatric technician must disclose if he or she had been convicted of any violation of the law, with the exception of traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances, since they last applied for renewal.

The Board seeks to amend these regulations to address the issue of renewal applicants being required to disclose a high volume of traffic infractions that have not warranted enforcement action. The proposed amendments will increase the reportable traffic infraction fine amount from \$300 to \$1,000. By doing so, the Board's highest priority, to protect the public, will be better served because Board staff will be able to concentrate its efforts on other critical enforcement-related activities.

BACKGROUND AND SUBJECT REVIEW

The intent of this component of the renewal process is to identify licensees who have been convicted of a violation of the law, since their last renewal, which might reflect a violation of the Board's law. However, due to the low fine reporting threshold, licensees must report a multitude of traffic infractions that are have not resulted in enforcement action. The current self-disclosure requirement for license renewal, as it relates to reporting traffic infractions over \$300, creates a significant workload for staff and reporting requirement for licensees, without significantly increasing public protection. By increasing the fine reporting threshold to \$1,000 licensees will only have to report traffic related convictions if the fine exceeds \$999. A fine under \$1,000 for a traffic infraction will be exempt from reporting as long as it did not involve alcohol, dangerous drugs, or controlled substances.

Public comments at the February 26, 2014, Board meeting along with a review of Uniform Bail and Penalty schedules for Los Angeles and Sacramento counties support that increasing the reportable fine amount to \$1,000, would ensure that traffic related infractions that are not likely to result in enforcement actions would not have to be reported to the Board. As noted above, traffic violations involving the use of alcohol or drugs have been and remain reportable, regardless of the fine amount.

The proposed rulemaking action was submitted to the Office of Administrative Law (OAL) and published on July 11, 2014. The public comment period ended on August 25, 2014, and the regulation hearing was held on August 28, 2014. **No written or oral comments were received.**

The final proposed regulatory language is being submitted to the Board itself for final approval and to grant the Executive Officer the authority to make technical or non-substantive changes that might be required to complete the rulemaking process.

RECOMMENDATIONS

1. Approve the proposed regulatory language amending sections 2517.5 and 2575.5 of title 16 of the California Code of Regulations.
2. Direct staff to submit the rulemaking file to the Department of Consumer Affairs and to the Office of Administrative Law.
3. Authorize the Executive Officer to make any technical or non-substantive changes that may be required to complete the rulemaking file.

Attachment A - Proposed Regulatory Language

Agenda Item # 11.A. Attachment

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Vocational Nursing Regulations

§ 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 when applying for renewal 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 license is renewed in an inactive status, or if the licensee 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 whether, since the licensee last applied for renewal, 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 \$1,000 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) 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.

(e) 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.

Agenda Item # 11.A. Attachment

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Psychiatric Technicians Regulations

§ 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 when applying for renewal 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 license is renewed in an inactive status, or if the licensee 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 whether, since the licensee last applied for renewal, 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~~ \$1,000 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) 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.

(e) 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.