

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

DIVISION 25. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

DEPARTMENT OF CONSUMER AFFAIRS

INITIAL STATEMENT OF REASONS

Hearing Date: The Board of Vocational Nursing and Psychiatric Technicians (Board) has not scheduled a hearing on the proposed changes. However, a hearing will be scheduled upon request by any interested party if the request is received no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: AB 1536: New School Program Approval Process

Certificate of Compliance filing for emergency regulations approved June 27, 2022, OAL File Number 2022-0616-03E

Section(s) Affected: Amend Sections 2525, 2526, in Article 5 and Adopt Section 2537.2 in Article 6 of Chapter 1 of Division 25 of Title 16 of the California Code of Regulations and Amend Sections 2580, 2581, in Article 5 and Adopt Section 2590.2 in Article 6 of Chapter 2 of Division 25 of Title 16 of the California Code of Regulations (CCR).

Background and Statement of the Problem:

The Board of Vocational Nursing and Psychiatric Technicians licenses, regulates, and investigates complaints against two different license categories in California, totaling approximately 139,669 licensees. These licensing categories include licensed vocational nurses (LVN) and psychiatric technicians (PT). It is the Board's duty to enforce and administer the Vocational Nursing Practice Act (Chapter 6.5 commencing with section 2840) of Division 2 of the Business and Professions Code (BPC), (Act), and the Psychiatric Technicians Law (Chapter 10 commencing with section 4500) of Division 2 of the Business and Professions Code (BPC), (Law). The Board submitted an Emergency Rulemaking File to the Office of Administrative Law (OAL) in June of 2022, which was approved on June 27, 2022. The Board is now submitting the adopted regulation for consideration of approval by OAL in compliance with the requirements of Government Code section 11346.1, subdivision (e). The proposed regulations are nearly identical to the regulations adopted on June 27, 2022, with the exception of non-substantive edits to correct numbering, syntax, grammar, punctuation; and, to add additional response options to application questions listed where authorized on the forms incorporated by reference in this proposal.

The Board is authorized to establish necessary rules and regulations for the enforcement of the Act and the Law, and the laws subject to its jurisdiction. (Bus. & Prof. Code, §§ 2854 and 4504.)

Existing law requires the Board to approve schools or programs of vocational nursing and psychiatric technicians (“schools”) in California. The Board prepares and maintains a list of approved schools whose graduates, if they have the necessary qualifications, shall be eligible to apply for a license with the Board to practice as a vocational nurse or psychiatric technician. (Bus. & Prof. Code, §§ 2880 and 4530.)

In 2021 the legislature passed Assembly Bill 1536 (Assembly Committee on Business and Professions, Chapter 632, Statutes of 2021) requiring the Board to implement sections 2881.2 and 4531.1 of the Business and Professions Code (BPC). This legislation requires the Board to follow a timeline for approving schools and establishes statutory caps for charging fees for schools seeking approval. The Board did not have regulations to implement these requirements. The legislation required the adoption of emergency regulations no later than June 30, 2022, which are in effect, with the Certificate of Compliance being due to the Office of Administrative Law no later than June 27, 2023.

Specifically, AB 1536 establishes a fee cap of up to \$5,000 for the initial application, up to \$15,000 for the final approval, and \$5,000 for continuing approval every four years. It directs the Board to decrease fees attributable to the costs of providing oversight and review if the actual costs of review are less than the amount of any fees required to be paid by that school or program. It authorizes the Board to reduce the continuing approval fee for a program that experiences a reduction in state funding under specified criteria; it further authorizes the Board to use a reduced fee of \$5,000 for the final approval of an applicant affiliated with an approved school or program currently approved by the Board. The bill also requires the Board to maintain a list of inactive schools seeking Board approval that fail to respond to Board inquiries or pay fees within specified timeframes.

BPC sections 2881.2 and 4531.1 do not provide specifics on the Board’s new school approval process itself, or the necessary items required for obtaining or maintaining approval, including the contents of the initial approval application, the fee amounts and the process for calculating the initial application, final and continuing approval fees, the requirements for obtaining a reduction in the continuing approval fee based upon a reduction in state funding that directly leads to reduced enrollment, and the criteria for maintaining continuing approval. These sections use specific terminology such as “affiliated with an approved school or program,” “letter of intent,” “reasonable costs for providing oversight and review,” but do not define these terms.

This proposal establishes such standards and definitions in its current emergency regulations and seeks to permanently adopt those regulations specifying the Board’s

requirements for obtaining and maintaining a school approval for schools or programs of vocational nursing or for the preparation of psychiatric technicians. This proposal specifies the initial and continuing approval application requirements, including a letter of intent form and applications and forms for initial and continuing approval (listed below), and requires the Board to follow a timeline for processing applications and approving schools. Changes to authority and reference notes for each proposed amended or adopted regulation would be made to reflect the Board's authority to adopt regulations pursuant to the authority vested by BPC sections 2854, 2881.2, 4504, and 4531.1, and to implement, interpret, or make specific BPC sections 2866, 2880, 2881, 2881.2, 2881.3, 2883, 4511, 4515, 4530, 4531, 4531.1, 4531.2, and 4532.

The Board's current emergency regulations implement these requirements through June 28, 2023; the Board has therefore drafted the following proposal that would specify all of the following requirements in permanent regulation.

This proposal would set minimum requirements for the following:

- (1) the content of the Letter of Intent document (the document that begins the approval process for a new school) and the required format for submission;
- (2) the method and process for notifying a school or program of the next steps in the approval process;
- (3) the form and method of submitting a completed application, including required forms and fee;
- (4) the method and process for notifying a school or program when its initial application is complete and the "good cause" criteria for requesting an extension to complete the application;
- (5) grounds for denying an application (initial or continuing), including for noncompliance with the Board's regulations and on grounds specified in section 480 of the Business and Professions Code (substantially-related criminal convictions, disciplinary action by another state board, knowingly false statements on the application);
- (6) the procedures for notifying an institution of the action taken on the initial application;
- (7) the process for submitting the final approval fee and an invoice for the reasonable costs incurred by the Board in the approval process for the institution;
- (8) the standards for notifying the Board of any material change in circumstances affecting any information contained in any application or submitted in support of any application;
- (9) the method for determining when an approval will expire and the steps the school or

program would need to take to apply for continuing approval;

(10) the form and method for submitting a continuing approval application, including required forms and fee;

(11) the method and process for notifying a school or program when its continuing approval application is complete, and,

(12) alternate student criteria if the school or program elects to admit alternate students to its program (moves existing text to a new subsection).

This proposal would also adopt a new fee schedule for applicants and approved schools of vocational nursing or for the preparation of psychiatric technicians, as follows:

(1) the initial application fee of \$5,000;

(2) the final approval fee of \$15,000 unless the institution is entitled to a decrease in fees due to actual costs being less proportionate to the actual costs associated with that school or program, or due to affiliation with another Board approved school or program;

(3) the final approval fee of \$5,000 for any applicant providing documentation of its affiliation with another approved school or program. Such documentation would include proof of a formal collaborative agreement between the applicant institution and an approved school or program that is in good standing as specified;

(4) the method for calculating the initial determination by the Board for the reasonable costs for providing oversight and review of an institution;

(5) the method and documentation requirements for calculating a reduction in fees to \$2,500 for schools or programs experiencing a reduction in state funding resulting in reduced enrollment; and,

(6) the process the Board will use to provide a school or program a fee payment statement that shows the Board's initial determination of the reasonable costs for providing oversight and review for the school or program's continuing approval application.

This proposal would utilize and incorporate by reference, the following forms:

Forms Incorporated by Reference in this proposal:

VOCATIONAL NURSING PROGRAMS

Form #	Form Name
55M-1	Letter of Intent to Submit Application for Initial Approval of New School or Program – Vocational Nursing (New 04/2022)
55M-2	Application for Approval of New School or Program of Vocational Nursing (New 04/2022)
55M-3A	Clinical Facility Verification Form – VN (New 04/2022)
55M-2E	Summary of Instructional Plan Program Hours Vocational Nursing Program (New 04/2022)
55M-15	Continuing Approval Application for a Vocational Nursing School or Program (New 04/2022)

PSYCHIATRIC TECHNICIAN PROGRAMS

Form #	Form Name
56M-1	Letter of Intent to Submit Application for Initial Approval of New School or Program – Psychiatric Technician (New 04/2022)
56M-2	Application for Approval of a New Psychiatric Technician School or Program (New 04/2022)
56M-3A	Clinical Facility Verification Form – PT (New 04/2022)
56M-2E	Summary of Instructional Plan Program Hours Psychiatric Technician Program (New 04/2022)
56M-15	Continuing Approval Application for a Psychiatric Technician School or Program (New 04/2022)

VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIAN PROGRAMS

55M-3	Intent for Clinical Placement (New 04/2022)
55M-2W	Vocational Nursing or Psychiatric Technician Program Curriculum Content - Instructional Plan (New 04/2022)
55M-10	Verification of Faculty Qualifications Form (New 04/2022)

Anticipated benefits from this regulatory action:

Qualified prelicensure programs must be approved consistently and timely to ensure that the workforce pipeline of licensed vocational nurses and psychiatric technicians can support the health and well-being of Californians. These regulations would create

consistent standards for the review and approval of new schools of vocational nursing or programs for the preparation of psychiatric technicians and specified timelines for Board review, response, and approval of applications. This will help alleviate applicant confusion and help ensure that applications are processed in a timely manner, thus helping increase the likelihood of a greater number of educational institutions approved by the Board and greater access to educational opportunities for those seeking to enter the workforce as a licensed vocational nurse or psychiatric technician. Adopting standards for notice of, and the method for calculation of, fees relative to the actual costs of providing oversight and review for final approval and continuing approval will also help ensure accountability and transparency in the Board's fee calculation process.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Amend title for Section 2525, repeal reference to Section 2502(c) and add new introductory phrase in Article 5 of Chapter 1 of Division 25 of Title 16 of the California Code of Regulations – Schools of Vocational Nursing

- A. Purpose: This amendment would retitle the section from “Schools of Vocational Nursing: Definition” to add an “s” to the word “Definition” so that the title would read: “Definitions” within Article 5 of Chapter 1 of Division 25 of the Board’s regulations to define the Board's most frequently used terms relating to Schools of Vocational Nursing. The Board also proposes to repeal the existing reference to section 2502(c) of the general definitions for this chapter in this section as unnecessary, and also proposes to add a new introduction to the beginning of the definitions for easier comprehension.
- B. Rationale: These changes are necessary for organizational purposes, notice to the regulated community, and for ease of use in locating the relevant terminology used throughout the Article and forms incorporated by reference. The Board proposes to add a sentence to the beginning of section 2525: “As used in this Article, unless the context otherwise requires...” as an introduction to the list of definitions so that the affected stakeholders may understand how the terms apply relative to this Article. The Board also proposes to repeal the existing reference to section 2502(c) of the general definitions for this chapter in this section, as section 2502 already states that its definitions apply to this chapter; therefore, the Board believes it is unnecessary to retain this cross-reference.

2. Repeal existing title, add new introductory phrase and adopt new title and new Section 2580 in Article 5 of Chapter 2 of Division 25 of Title 16 of the California Code of Regulations – Schools for Preparation of Psychiatric Technicians

- A. Purpose: The Board proposes to repeal the now obsolete title and authority and reference note for this current section. This previously repealed section (1983) entitled “Approved Schools for Preparation of Psychiatric Technicians” would be

used to create a section entitled “Definitions” within Article 5 of Chapter 2 of Division 25 of the Board’s regulations to define the Board’s most frequently used terms relating to Schools for Preparation of Psychiatric Technicians. The Board also proposes to add a new introduction to the beginning of the definitions for easier comprehension.

- B. Rationale: This is necessary for organizational purposes, notice to the regulated community, and for ease of use in locating the relevant terminology used throughout the Article and the forms incorporated by reference. The Board proposes to add a sentence to the beginning of section 2580: “As used in this Article, unless the context otherwise requires...” as an introduction to the list of definitions so that the affected stakeholders understand how the terms apply relative to this Article. The existing title would be repealed to adopt a title that more accurately describes the contents of the new section.

3. Sections 2525 and 2580, adopt new subsections (a), (b), (c), (d), (e), (f), (g) and (h)

Note: These subsections create definitions for existing terms found in BPC sections 2881.2, 2881.3, 4531.1, and 4531.2 and Article 5 of Chapters 1 and 2 of Division 25 of Title 16 of the CCR, and the forms incorporated by reference within these Articles. Since the provisions are nearly identical for both sections, the purposes and rationales are summarized collectively as follows:

Subsection (a)

- A. Purpose: The term “affiliated with an approved school or program” is used in Code sections 2881.2(b)(2)(B)(i) and 4531.1(b)(2)(B)(i) without definition. The Board proposes to define “affiliated with an approved school or program” to mean any school or program that has a formal collaborative agreement with an approved school or program, as defined in BPC sections 2881 or 4531 (as applicable), that controls its academic policies and curriculum, and where the school or program agrees to utilize the policies and curriculum of the approved school or program.
- B. Rationale: In the Board’s experience, the formal collaborative agreement is the best way to determine actual affiliation between different schools as such agreements typically show whether there is an established, contractual relationship governing academic policies and curriculum, and whether there is agreement to utilize the policies and curriculum of the approved school or program. The definition is necessary for the Board to identify which schools would be eligible for a fee reduction in accordance with the criteria set forth in BPC sections 2881.2 or 4531.1.

Subsection (b)

- A. Purpose: Existing regulations in Article 5 of Chapter 1 of the Board’s regulations currently use the term “institution” but without a definition. This proposal would create such a definition to specify that it includes a postsecondary school or educational program offering courses of instruction in vocational nursing or for the preparation of psychiatric technicians, as applicable.
- B. Rationale: This proposal would adopt such a definition for the word “institution” when referring to postsecondary educational institutions offering courses of instruction in either vocational nursing or preparation of psychiatric technicians in Division 25 of Title 16 of the CCR. For ease of use and comprehension, the Board proposes to adopt the short form reference of “institution” in lieu of using “school or program.” This definition is also consistent with the types of adult training and schools subject to Board approval under BPC sections 2881, 4530 and 4531.

Subsection (c)

- A. Purpose: The Board proposes to define “Approval Process,” as used in sections 2881.2(a) and 4531.1(a) of the Code to mean the process by which a school or educational program may seek approval to become an approved school of vocational nursing from the Board.
- B. Rationale: The definition would clarify and standardize use of “Approval Process,” in the Code and these proposed regulations, and forms incorporated by reference since those terms are subject to multiple interpretations. This proposal would therefore help ensure that applicants and other stakeholders better understand the school approval process and when specific requirements referenced apply when those terms are used in this proposal and in BPC sections 2881.2(a) and 4531.1(a).

Subsection (d)

- A. Purpose: The Board proposes to preserve the current use of “class” in Division 25 of Title 16 of the CCR and seeks to merge the meaning of the term, “class,” with “cohort,” to clarify that the use of “class” is to mean “a group of students,” and not a specific event of instruction.
- B. Rationale: Since these terms may be ambiguous, as described above, this definition will help avoid confusion in the application process and will help ensure the Board receives more accurate and complete applications.

Subsection (e)

- A. Purpose: “Faculty” is not defined outside of sections 2529 and 2584 in Division 25 of Title 16 of the CCR. This proposal would provide such a definition to include persons specifically appointed as Director, Assistant Director, Instructor, Additional Faculty, Teacher Assistant, or other persons who have the qualifications to teach as specified in section 2529.
- B. Rationale: The Board proposes this definition for consistency with existing regulation at 16 CCR section 2529, which defines these various categories of staff at a university or college. The term “faculty” is used in various provisions of this regulatory proposal and is subject to multiple interpretation. Therefore, this definition will help avoid applicant confusion when responding to questions on the various applications contained within this proposal, and help ensure the Board receives more accurate and complete applications.

Subsection (f)

- A. Purpose: The Board proposes to define “good cause shown” to clarify the conditions under which the Board may grant an institution an additional 30 days to complete its application as permitted by sections 2881.2(a)(3) and 4531.1(a)(3) of the BPC, which include all of the following conditions and applicable documentation:
- (1) Death of an immediate family member for any individual applicant, or officer, manager, or director of any applicant. Documentation, such as a copy of the death certificate, must be submitted.
 - (2) Catastrophic illness, contagious disease, or major traumatic injury to any individual applicant, or officer, manager, or director of any applicant or their immediate family member (spouse, child, or parent). Documentation, such as an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature, must be submitted.
 - (3) Natural disaster (earthquake, flood, fire, etc.) in the applicant's physical or office location.
 - (4) Service of any individual applicant, or officer, manager, or director of any applicant on extended active duty with the Armed Forces of the United States. Documentation, such as copies of current Leave and Earnings Statements or military orders, must be submitted.
- B. Rationale: Because the language of BPC sections 2881.2(a)(3) and 4531.1(a)(3) is permissive, the Board seeks to create consistency and transparency in the manner

it will permit this extension of time and will help ensure that applicants have notice of the limited exceptions to the timelines in the BPC and the documentation required for the Board to grant an extension. Given the purpose of AB 1536, which is to eliminate backlogs and provide for a timely application and approval process, the Board has determined that, in its experience, the above-referenced conditions constitute conditions that would be beyond the applicant's control and therefore a reasonable basis for granting an extension in these limited cases. The documentation required by this section is necessary to ensure that there is a factual basis for the extension request, and also to prevent fraud in the application process. Documents such as death certificate, physician's letter on official letterhead and copies of current Leave and Earnings Statements or military orders are common forms of certification and verification that are simple ways for an applicant to certify that these conditions exist, and the Board believes that the types of documentation required, where applicable, would be sufficient to provide the Board with reasonable assurances of the necessity of the extension and the applicant's eligibility for additional time to complete the application process.

Subsection (g)

- A. Purpose: The Board proposes to define "Letter of Intent" as used in BPC sections 2881.2(a)(1)(A) and 4531.1(a)(1)(A) as a document describing the school's or educational program's preliminary plan to submit an initial application for Board approval of a vocational nursing or psychiatric technician program in compliance with the requirements of this Article and Article 4 (commencing with section 2880) of Chapter 6.5 of Division 2 of the BPC.

- B. Rationale: This definition helps applicants understand and identify the Letter of Intent's role and purpose in the Approval Process and to underscore the importance of the development of a "plan" prior to submission of an application.

Subsection (h)

- A. Purpose: "Reasonable costs for providing oversight and review" is used in BPC sections 2881.2(b) and (c) and 4531.1(b) and (c) but there is no explanation for what those costs mean and/or how they are calculated. The Board proposes to provide such a definition that includes the Board's total staff time in dollar value costs allocated to each task performed in the approval process and in providing oversight and review of an institution, including actual costs to the Board for staff salaries, wages, and benefits as part of the application review, and to assess continuing compliance with this Article, and any travel expenses incurred by staff and paid by the Board in conducting site visits, inspections, or reviews of an institution. The Board proposes to implement, interpret, and make specific these

BPC sections by listing the specific expenses which, according to the Board’s experience in regulating these types of institutions, contribute to the assessed fees for final and continuing approval.

- B. Rationale: This is necessary for transparency, consistency of fee calculations, and to provide notice to applicants and the regulated community regarding how the Board calculates costs for providing oversight in the review and approval of such institutions.

4. Amend Section 2526 in Article 5 of Chapter 1 of Division 25 of Title 16 of the California Code of Regulations – Schools of Vocational Nursing

- A. Purpose: Amendments to this section would adopt new subsections to implement, interpret, and make specific BPC sections 2881.2 and 2881.3.
- B. Rationale: Existing regulations do not conform to changes enacted by AB 1536. These regulations are therefore necessary to ensure that conformity occurs, and the Board’s regulations thoroughly cover the policy changes enacted by AB 1536. Amendments to these sections would therefore include: revision of existing standards for initial approval, the content requirements for the Letter of Intent, the methods and processes for applying for and notice of the approval process, forms for submission of initial and continuing approval, requirements for requesting a “good cause” extension, the process for notifying an institution whether an application is complete or incomplete, requirements for notice regarding “material changes” to an application, setting standards for determining when an approval will expire, and the requirements for maintaining continuing approval. The amendments would also strike certain existing requirements in this section, which have been moved to various forms that will be incorporated by reference as further described below.

5. Amend Section 2581 in Article 5 of Chapter 2 of Division 25 of Title 16 of the California Code of Regulations – Schools for Preparation of Psychiatric Technicians

- A. Purpose: The new subsections will implement, interpret, and make specific BPC sections 4531.1, and 4531.2.
- B. Rationale: Existing regulations do not conform to changes enacted by AB 1536. These regulations are therefore necessary to ensure that conformity occurs, and the Board’s regulations thoroughly cover the policy changes enacted by AB 1536. Amendments to these sections would therefore include: revision of existing standards for initial approval, the content requirements for the Letter of Intent, the methods and processes for applying for and notice of the approval process, forms

for submission of initial and continuing approval, requirements for requesting a “good cause” extension, the process for notifying an institution whether an application is complete or incomplete, requirements for notice regarding “material changes” to an application, setting standards for determining when an approval will expire, and the requirements for maintaining continuing approval. The amendments would also strike certain existing requirements in this section, which have been moved to various forms that will be incorporated by reference as further described below.

6. Amend Sections 2526 and 2581, subsections (a), (b), (c), (d), (e), (f), (g), and adopt (h), (i), (j), (k), and (l)

Note: Since the proposed amendments to these provisions are nearly identical for both sections 2526 and 2581, they are summarized collectively as follows:

- A. Purpose: The new subsections will implement, interpret, and make specific BPC sections 4531.1, and 4531.2
- B. Rationale: Amendments to this section would adopt new subsections and strike certain existing requirements which have been moved to various forms that will be incorporated by reference as further described below.

Subsection (a)

A. Purpose: This subsection prescribes the content of the Letter of Intent document (the document that begins the approval process for a new school) and the required format for submission using existing standards for the initial application approval process in this section. Institutions seeking to begin the approval process shall submit a Letter of Intent which includes a form (as specified below) and written narrative statements and documentation on each topic listed below that are prepared by the program director.

B. Rationale: These items will assist the Board in determining an institution’s readiness for the program approval process. This information will also be used by the Board to provide an estimated wait time until active assignment to a nursing education consultant as required by BPC section 2881.2(a)(1)(A), which may vary depending on program type, and the potential size and complexity of the school or program.

The Board has determined that the following information is necessary for each institution to develop an adequate preliminary plan in preparation for submission of an initial application for Board approval of a vocational nursing program in compliance with the requirements of this Article and Article 4 (commencing with section 2880) of Chapter 6.5 of Division 2 of the Code:

(1) A completed “Letter of Intent to Submit Application for Initial Approval of

New School or Program – Vocational Nursing,” Form 55M-1 (New 04/2022), which is incorporated by reference and requires a potential applicant to provide identifying information to enable the Board to communicate effectively with the program, and identify potential applicants for approval, including:

(A) Program Type (full time or part-time and whether the school or program is a Community College, Adult School, R.O.P. (Regional Occupational Program), Private, Hospital-Based or Other),

(B) Proposed School or Program Name,

(C) Mailing Address,

(D) Name of Owner of Proposed School or Program,

(E) Program Director’s Name,

(F) Program Director’s Office Address,

(G) Direct Phone,

(H) Email Address,

(I) Signature of Program Director,

(J) Printed Name of Program Director; and,

(K) Date.

(L) The following notices are necessary as required by law and to provide transparency to the potential applicant of the consequences of failing to provide current information to the Board: (i) notice regarding the Board’s collection and use of personal information on the form in accordance with Civil Code section 1798.17, (ii) notice that programs should email the Board immediately at BVNPT.Education@dca.ca.gov if there are any changes in contact information; and, (iii) notice that failure to provide updated contact information may delay processing if the Board cannot reach the school or program.

(2) Philosophy of the program. (existing topic amended to add the following definition: This is a document that outlines an educational program’s values, ethics, and beliefs (“philosophy”). Examples of concepts generally found in a program’s philosophy include humanity, society, health, wellness, illness, education, teaching and learning).

(3) Conceptual framework. (existing topic amended to add the following definition: This is a document that guides the overall structure of the curriculum and reflects the philosophy of the program).

(4) Terminal objectives to indicate expected student outcomes upon successful completion of the program. (existing topic amended to add the following definition: This includes measurable statements regarding the student's successful completion of progressive components of the program, e.g., completion of course, term, or semester. Concepts generally found within terminal objectives include successful completion of program hours and/or objectives, passing examinations as described in sections 2510 or 2570, and being able to perform as a competent entry level vocational nurse or psychiatric technician).

(5) Feasibility Narrative. This proposal would strike the existing reference to "curriculum objectives" (moved to initial application form), replace it with "feasibility narrative" and the following definition: This means a description of the type of school or program being proposed, the total cost to the student to complete the program (including tuition, all fees, uniforms, materials, etc.), the intended start date, and the projected size of the first class.

(6) Title and General Description of Each Course. This proposal would strike the existing reference to "course outlines" (moved to initial application form), replace it with "Title and General Description of Each Course" and the following definition: The institution shall provide the name(s) of each course and a corresponding general course description. The course description shall describe the subject matter of the course and the educational objectives of each course.

(7) Clinical Facility Placement List. This proposal would strike the existing reference to "course objectives" (moved to initial application) and replace it with "Clinical Facility Placement List" and the following definition: A list of the clinical facilities that are intended to be utilized for learning experiences. The institution shall submit a completed "Intent for Clinical Facility Placement," Form 55M-3 (New 04/2022), for each health care facility that agrees to provide clinical placement for students of the proposed school or program.

Form 55M-3 requires the institution to provide the following information on the form to help ensure that the institution has a plan to provide clinical facility placements for prospective students, a requirement that, in the Board's experience, is a critical component in the school approval process by the Board:

(A) Program Name: Type: VN PT,

- (B) Program Campus Location,
- (C) Clinical Experience Address,
- (D) Facility Name, Telephone #, City: State: Zip Code,
- (E) Facility Administrator/Director Name,
- (F) Name/Title of Person Responsible for Student Placement,
- (G) Facility Contact Person, Telephone #, Email Address,
- (H) Projected Term/Semester for Clinical Site,
- (I) Projected Content Area(s),
- (J) Projected Number of Students per Rotation,
- (K) Facility Director's Printed Name,
- (L) Facility Director's Signature and Date,
- (M) Program Director's Printed Name; and,
- (N) Program Director's Signature and Date.

The information provided will help the institution ensure that it has a plan in place for clinical placements, will be adequately prepared to submit an initial application to the Board to begin the school approval review process. This information, along with other information provided in the Letter of Intent, will allow the Board as part of its obligations under BPC 2881.2 to assess the scope of the proposed program and calculate estimated wait times for assignment of a nursing education consultant.

(8) Student Services List. This proposal would strike the existing reference to "instructional plan" (moved to initial application) and replace it with "Student Services List" and the following definition: A list of resources for provision of counseling and tutoring services for students and corresponding contact information (e.g., primary contact name, telephone number, mailing and/or email address).

(9) Geographic Narrative. This proposal would strike the existing reference to "evaluation methodology for curriculum" (moved to initial application) and replace it with "Geographic Narrative" and the following definition: This means a description of the geographic area and community to be served by the proposed school or program (e.g., demographics, numbers of health facilities in the area in need of vocational nursing or psychiatric technician services, or potential growth of the community).

The Board has added definitions in item nos. 2-9 above to help ensure consistency and completeness in the application approval process. These definitions will help applicants understand the minimum standards required for Board approval with the goal of helping applicants prepare a fully developed plan for school approval, which should help increase the likelihood of a providing a completed and compliant initial application to the Board in the next step of the application approval process as outlined below.

Existing subsections (9)-(13) and (15)-(20) of this subsection are being deleted and moved to sections on the initial application form, which is proposed to be added by subsection (c) as explained below. Existing subsection (14) related to “number of students” and the current requirements for submission of alternate students is being moved to proposed subsection (l) for better organization and consistency with the newly added provisions of this section. In addition, the proposed change provides notice that those standards for admitting alternate students are retained and are considered a minimum standard to obtain or maintain Board approval.

Subsection (b)

A. Purpose: This subsection establishes the format for submission of the written narrative response set forth in subsection (a) above. The institution shall provide separate narrative responses for each required item, using a simple naming convention for each response as follows: clearly identify their responses by placing the name of the institution at the top of each page that is provided and then using a simple naming convention that, at a minimum, links each response to the number and subject matter of the request in subsection (a), and provides the date of the response or document (e.g., “1. Philosophy of the program. 2/2/2022”).

B. Rationale: The Board requires a format for the written narrative responses to help ensure that the proposed applicant institutions provide a completed letter of intent in an organized, easily understood manner. In the Board’s experience, providing a prescribed format helps applicants demonstrate that they have provided a complete document and lessens the risk of a document being rejected by the Board due to missing information.

Subsection (c)

A. Purpose: This subsection prescribes the method and process for notifying a school or program of the next steps in the approval process, and the form and method of submitting a completed initial application, including required forms and fee.

B. Rationale: These requirements are necessary for the Board to perform a full and qualitative assessment of the proposed program offered by the institution to see if it meets minimum standards, to ensure consistency in the application review process, and to provide fair and complete notice to the regulated community of the minimum standards for application required by the Board. This proposal would include the requirements set forth below to start the approval process and submit a completed application to the Board.

Upon receipt of a completed Letter of Intent, the Board shall send written acknowledgment of receipt and provide an estimated wait time until active assignment

to a nursing education consultant consistent with BPC 2881.2 or 4531.1, as applicable. Subsection (c) further requires the institution to submit a completed initial application for approval, within 60 days of the date of written notice by the Board, which includes the following forms incorporated by reference:

(1) a completed “Application for Approval of New School or Program of Vocational Nursing, Form 55M-2 (New 04/2022) [for section 2526] or “Application for Approval of a New Psychiatric Technician School or Program,” Form 56M-2 (New 04/2022) [for section 2581]. Those applications require the following information to be submitted:

(A) *Section 1: Program Information:* this section would require the institution to provide identifying and contact information to enable the Board to effectively communicate with and identify the program, including whether the program is affiliated with an approved school or program as defined in section 2525 or 2580, and, if applicable provide documentation of the formal collaborative agreement.

(B) *Section 2: Contact Person for this Application:* this section would require the institution to provide a designated contact person for the processing of this application (name, title, address, email address, telephone number, etc.). This provision is necessary for the institution to designate one authorized contact for the application to help ensure consistency and responsiveness in the information provided to the Board.

(C) *Section 3: Applicant/Ownership Information:* this section would require the institution to provide identifying information for the applicant to ensure that the Board has accurate and complete information regarding the ownership of the institution and to ensure accuracy in the issuance of a possible approval (license) to a school of vocational nursing or program for the preparation of psychiatric technicians. In addition, the Board collects the SSN, ITIN or FEIN as required by BPC sections 30 (implementing section 17520 of the Family Code), 31 and 494.5 for LLCs and Corporations (individually owned/sole proprietor or partnership applicants disclose their SSN, ITIN or FEIN numbers in section 4 of this application). Family Code section 17520(a)(6) defines a licensee (and therefore subject to the SSN/ITIN disclosure requirements) to include the following: “For licenses issued to an entity that is not an individual person, “licensee” includes an individual who is either listed on the license or who qualifies for the license.” Consistent with the requirements in BPC 30(a) and section 17520 of the Family Code to collect the SSN or ITIN for all other non-partnership-type applicants, the applicant is required to report the SSN or ITIN of the principal individuals who are the officer(s), managers or officials of the entity who are responsible for the operations or management of the corporation or LLC and are therefore considered “listed on the license” by the Board since they are responsible for management and control of the entity as determined by the applicant.

This section further provides notice to the applicants that the SSN/ITIN information is collected for the purpose of tax enforcement, and compliance with any judgment or order for family support in accordance with Family Code section 17520. Applicants are

notified that failure to disclose the SSN, ITIN, or FEIN, will result in the application not being processed, and they will be reported to the Franchise Tax Board; they may assess a \$100 penalty against the applicant in accordance with BPC section 30(b).

(D) *Section 4: Form of Business Organization*: this section would require information and documentation for the form of business entity licensed by the Board to ensure that the Board has accurate identifying information and understands the form of business entity for whom an approval may be issued. Documentation of the entity's legal form of business organization for partnerships, LLCs and corporations is also requested to ensure that the entity can legally operate and/or conduct business in this state.

(E) *Section 5: Disciplinary History*: this section would require the applicant to disclose whether within the preceding 7 years from the date of this application, has the applicant ever had a school or program approval and/or any other license suspended, revoked, placed on probation, or had other disciplinary action, including public reproof or reprimand, taken against a license the applicant has held by a state licensing board in or outside of California. BPC section 480 authorizes the Board to deny an applicant who has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on substantially related, professional misconduct that would have been cause for discipline before the board for which the present application is made. This question and narrative explanation of the violations (for those who answer "yes") are therefore necessary to determine whether grounds for denial exist per BPC section 480.

(F) *Sections 6-30: Minimum Program Eligibility Requirements*: These sections cover what the Board considers to be essential in determining whether the institution's proposed program meets minimum operating standards for Board approval. The proposed sections include the subject matter covered, applicable definitions and descriptions for the required information or documentation to demonstrate eligibility, and sections to check in response, to remind the institution to include the information or documentation requested, including:

Section 6: Organization and Management (organizational chart),

Section 7: Geographic Narrative (description of the geographic area and community to be served),

Section 8: Feasibility Narrative (description of the type of school or program proposed, total costs to the students, intended start date, and projected size of the first class),

Section 9: Philosophy of Program (values, ethics and beliefs of the program);

this item includes examples to help users complete the application accurately),

Section 10: Conceptual Framework (a document that guides the overall structure of the curriculum and reflects the philosophy of the program),

Section 11: Clinical Facility Placement (a clinical facility placement verification form 56M-3A (New 04/2022) is required to be completed as explained below),

Section 12: Terminal Objectives (a document that includes expected student outcomes upon successful completion of the program; this item includes examples to help users complete the application accurately),

Section 13: Evaluation methodology for curriculum (explanation of the process that identifies the methods by which the curriculum is regularly evaluated),

Section 14: Course outlines for each course (a document that reflects the outline and objectives for specific competencies related to essential elements within separate courses or terms),

Section 15: Instructional plan and program hours for the proposed program using forms 55M-2W and 56M-2E as described below),

Section 16: Daily lesson plans (copies of proposed daily lesson plans for each course of instruction),

Section 17: Faculty meeting methodology (a document describing the faculty meeting methodology for the program including frequency and minutes of those meetings available to the Board's representatives),

Section 18: Verification of Faculty Qualifications (requires completion of a Verification of Faculty Qualifications Form 55M-10 as described below for each proposed faculty member),

Section 19: Evaluation methodology for clinical facilities (an explanation of the process for evaluating clinical facilities; this item includes examples to help users complete the application accurately),

Section 20: Admission criteria (an explanation of requirements for a student's admission to the school or program),

Section 21: Screening and selection criteria (a document listing and explaining the criteria for selection of program candidates if there are more qualified applicants than available seats within an upcoming cohort),

Section 22: Student Services List (a list of resources for provision of counseling and tutoring services for students and corresponding contact information as specified),

Section 23: Number of students (for the initial cohort) and the school's policy for admitting alternate students (if planned),

Section 24: Evaluation methodology for student progress (the statement that describes the elements used for evaluation of student progress, which may include a grading policy. The requirement includes examples to help ensure a more accurate and complete application),

Section 25: Attendance policy (a written narrative describing the school or program's attendance policy, which must include attendance criteria and makeup criteria and forms, if applicable),

Section 26: Grievance policy (the description of the program's grievance policy and for providing notice of the policy),

Section 27: Required Notices (to students) (regarding ability to contact the Board, the program's process for granting credit for previous education and experience, and the program's Board-approved clinical facilities),

Section 28: Credit Granting policy (a description of the program's policy for giving credit toward the curriculum requirements, a determination of the curriculum area to which credit is applied, and justification for the credit applied including compliance with Board transfer credit requirements per CCR 2585.1),

Section 29: Remediation (a description of how the program evaluates student performance to determine the need for remediation, including the program's criteria or policy and actions taken if the student does not fulfill the requirements); and,

Section 30: Program Resources (a detailed description of the program resources including classrooms, library and other learning resources, support services, physical space, skills laboratory and equipment to achieve the program's objectives).

Note: In an effort to help reduce workload and eliminate duplication, this proposal would permit the applicant to simply write "No Changes to Letter of Intent" on the application, if any information required on the application that was previously also requested in the Letter of Intent has not changed since submission of the applicant's Letter of Intent to the Board.

(G) *Section 31: Eligibility for Expedited Review of Application (for Individual*

Owners/Sole Proprietorships Only): this section would permit applicants who are natural persons (since other forms of business organization could not “serve” in the U.S. Armed Forces) to submit documentation, as specified, to receive expedited review of their initial application for those applicants who have been honorably discharged from the U.S. Armed Forces or are an asylee, special immigrant visa holder or refugee meeting specified criteria in compliance with BPC sections 115.4 and 135.4. If the applicant answers “yes,” and that they meet specified criteria to meet expedited review, the Board requests they attach official documents commonly issued by the U.S. military, federal agencies or the courts for the categories of individuals listed in BPC sections 115.4 and 135.4 as evidence of their status as an honorably discharged member of the U.S. Armed Forces, refugee, asylee, or special immigrant visa holder.

These documents are necessary to verify and ensure the applicant meets the statutory requirements for expediting the initial application process. Copies of official government documents will help ensure the accuracy of the information provided by the applicants to the Board.

(H) *Certification under penalty of perjury*: this section requires the applicant or authorized representative of the applicant to sign and date the application under penalty of perjury that they are authorized to sign the application on behalf of the applicant, that they have read the application and any information included therein and any accompanying documents, and that the foregoing information is true and correct. This requirement would help confirm that the application is authorized to be filed on behalf of the applicant by the individual signing and certifying the information provided on and with the application. Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications].) The Board relies upon applicants’ self-reported information in evaluating applications. In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Board (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete or accurate. [“The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true.” *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.]

The application form contains check mark in response, (“Document is attached? _____ Yes _____ No”) throughout the form to alert applicants of the need to provide required documentation or information as set forth in each section.

Finally, the application form includes the required notices and disclosures to the

applicant for the Board's collection of personal information in compliance with Civil Code section 1798.17.

(2) a completed "Clinical Facility Verification Form – VN," Form 55M-3A (New 04/2022) [for section 2526] or "Clinical Facility Verification Form – PT," Form 56M-3A (New 04/2022) [for section 2581], for each applicable health care facility, as part of the initial application, would be required to be completed in its entirety by each health care facility that agrees to provide clinical placement for students of the proposed educational program. The form would require the following information for the Board to determine whether the program has evidence that it would be capable of providing students with relevant clinical placements:

(A) Program Name,

(B) Director's Name, Telephone No. and Email Address,

(C) Name of Health Care Facility,

(D) Facility Address,

(E) Type of Facility (acute care, SNF, long term care, clinic, private practice office, etc.),

(F) Name of Director of Nursing/Primary Contact, and Telephone No. and Email Address,

(G) Term/Semester Requested,

(H) Completion of a table showing the type of units where students can be placed in the health care facility, broken down by: (1) average daily census for each area, (2) number of students placed in a specified unit at any one time, (3) identification of shifts and days available for placement of students in the program, and, (4) relevant subject matter. The relevant subject matter would include:

A. For vocational nursing students, Form 55M-3A: Medical Surgical, Leadership/Supervision, Maternity, Pediatrics, Psych-Mental Health, and Fundamentals; and,

B. For psychiatric technician students, Form 56M-3A: Medical Surgical, Leadership/Supervision, Develop. Disabled, Mental Disorders, and Fundamentals.

(I) Instructor to Student Ratio,

(J) A checkbox for the health care facility to indicate that it agrees to offer clinical placement(s) to this new program; and,

(K) The form is signed and dated by the facility representative completing this form.

The form also includes the required information and disclosures required by Civil Code section 1798.17 for the collection of personal information to the person completing the form.

(3) a completed “Vocational Nursing or Psychiatric Technician Program Curriculum Content - Instructional Plan” Form 55M-2W (New 04/2022), as part of the initial application, this form would require the applicant to complete an instructional plan that correlates theory in clinical content and hours on a weekly basis and provides an overview of the teaching schedule. In the Board’s experience, applicants struggle with understanding how to prepare such a plan to meet the Board’s requirements. In response, the Board has developed this form as a template, guide, and rule for how to prepare such a plan and meet the Board’s requirements. The form includes a table with information the Board deems necessary to obtain an accurate picture of the institution’s proposed instructional plan and whether such plan can meet the program’s educational objectives, which includes: Curriculum Content/Hrs, Theory Objectives, Content Outline, Methods of Instruction, Assignments, Skills Lab Hours, Clinical Hours, Sim Hours, and Skills Lab/Clinical Objectives. The table will also include a header with the following information that must be provided for each educational program type (titles and key are listed at the bottom of the form) for each week the course of instruction is offered, including: Unit Title, Skills Lab Hours, Theory Hours: Simulation Hours, and Clinical Hours.

(4) a completed “Summary of Instructional Plan Program Hours Vocational Nursing Program” Form 55M-2E (New 04/2022) [for section 2526] or “Summary of Instructional Plan Program Hours Psychiatric Technician Program” Form 56M-2E [for section 2581], as part of the initial application, this form is related to the instructional plan form referenced above and would require the applicant to provide a summary of instructional program hours by program name, curriculum content (as specified in existing sections 2532 and 2533), and breakout of clinical hours by relevant topics. Relevant topics include:

A. For vocational nursing students, Form 55M-2E: Medical Surgical, Leadership/Supervision, Maternity, Pediatrics, and Fundamentals; and,

B. For psychiatric technician students, Form 56M-2E: Nurse Science Medical Surgical, Developmental Disabilities, Mental Disorders, and Nurse Science Fundamentals.

In the Board’s experience, applicants struggle with understanding how to document that its proposed program meets the Board’s requirements in existing sections 2532 and 2533 of the Board’s regulations. In response, the Board has developed this form as a template, guide, and rule for how to prepare such documentation and to show compliance.

(5) “Verification of Faculty Qualifications Form” Form 55M-10 (New 04/2022) for each faculty member as described in section 2529 or 2584, as applicable. This form is part of the initial application and would require the applicant to identify proposed faculty and demonstrate faculty qualifications in compliance with BPC sections 2529 (VN schools) or 2584 (PT schools), as applicable, for each campus or program. The form provides a convenient way for applicants to apply for each faculty approval as required by the Board’s regulations and helps ensure that applicants submit a completed application. The form would require all of the following to be submitted on the form to evaluate faculty qualifications in compliance with sections 2529 or 2584, as applicable, of the Board’s regulations:

- A. Program or School Name,
- B. Type of Program (VN Program PT Program),
- C. Faculty Applicant Full Name (must match name on license listed on this application),
- D. Position Title (Director, Assistant Director, Instructor, Additional Faculty, or Teacher Assistant with accompanying directions regarding which sections of the application to complete),
- E. Teaching Assignment (Full-Time, Part-Time, Teaching Theory, Teaching Clinical),
- F. Position Effective/Start Date (Director applicant Only),
- G. Professional License Information (Attach a copy of California RN, LVN or PT license(s)),
- H. Faculty Teaching Qualifications: would require faculty applicants to submit any of the following to demonstrate compliance:
 - (i) Teaching Course: (Certificate of Completion from an approved school or School Transcript). If teaching content is unclear from the certificate or transcript, a copy of the course description from the school’s catalog is requested.
 - (ii) Current Active California Professional License.
 - (iii) Baccalaureate Degree from Accredited School, University, or College: (Copy of school transcript showing date degree conferred, or diploma verifying program completion). For documents from a foreign jurisdiction, include certification of equivalency by a credential evaluation service such as National Association of Credential Evaluation Services.

(iv) Valid Teaching Credential: (Copy of Credential). Note that a credential does not constitute proof of a teaching course. The teaching course certificate or transcript from an approved school would need to be included; or,

(v) Minimum Qualifications for Faculty and Administrators in California Community Colleges: Bachelor's Degree; and two years of experience; OR Associate Degree and six years of experience.),

I. Director and Assistant Director Course Requirements: would require submission of a copy of the faculty applicant's certificate or transcript from an accredited institution verifying successful completion of the following courses: Administration; Teaching; and Curriculum Development. If the course content cannot be clearly identified, submission of a copy of the catalog course description would be required.

J. For additional faculty only: the following would be required to be disclosed: Curriculum courses to be taught and the faculty member would be required to select from a list of applicable courses, including: Anatomy, Pharmacology, Normal Growth and Development, Psychology, Nutrition or "Other" (with a blankspace for further description). In addition, the following would need to be disclosed for additional faculty qualifications: Baccalaureate Degree from Approved School, University, or College in Discipline related to curriculum content taught; or, whether the additional faculty meets California Community College or California State University Teaching Requirements.

K. For Teacher Assistants Only: applicant would need to check the box after reading the following statement:

"The Board requires, according to 16 CCR sections 2530 and 2585, that each teacher assistant works 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. The maximum instructor to student ratio of 1:15 does not increase with the addition of a teacher assistant."

L. A proposed Director, Assistant Director, Instructor or Teacher Assistant would be required to disclose professional work experience as an RN, LVN, or PT over the last six years. Instruction would specify that teaching experience would be documented in response to question no. 13 only. Disclosure would include specifications of the following: the name of the faculty member's current or former employer, city and state worked, and provide RN/VN/PT Position/Duties.

M. A proposed Assistant Director or Instructor would be required to disclose their teaching experience over the last six years in an accredited/approved vocational/practical nursing program, psychiatric technician program or registered nursing program only and include information regarding their employer, the city and state where employed and whether they provided instruction in theory or as a clinical instructor; and,

N. A certification statement, signed by the applicants, that attests that the information contained in and submitted with this application is true and correct. To allow for a thorough investigation regarding the information provided and/or provide the Board with a simple method for communicating with the faculty and/or Director regarding the application, the application requires the printed name, email address and signature of the Program Director along with the faculty applicant's signature, and date. A new Program Director will be required to provide their e-mail address and phone number as specified.

- (6) the nonrefundable initial application fee required by proposed sections 2537.2 (VN programs) or 2590.2 (PT programs), as applicable. This is necessary to provide notice that an application will not be deemed complete by the Board without submission of the required fees and the amount of those fees in accordance with sections 2537.2 and 2590.2 and that such fees are not refundable.

Subsection (d)

A. Purpose: This subsection establishes the method and process for notifying a school or program when its initial application is complete and the "good cause" criteria for requesting an extension to complete the application. Within 30 days of the date the Board receives an initial application for approval, the Board shall communicate in writing what deficiencies exist, and what additional documents or fees are required to make the application complete. This subsection provides that the institution has 60 days from the date of the Board's written notice to supply the missing information and cites the consequences of failing to submit the required fee or information as specified in section BPC sections 2881.2 or 4531.1. Written notice is necessary to ensure proper documentation to the applicant of the missing information required by the Board or that the application is complete and accepted for processing.

This subsection further provides that the Board may permit an institution an additional 30 days to complete its application for "good cause shown" as specified in section 2525 or 2580.

B. Rationale: Because the language of BPC sections 2881.2 and 4531.1 is permissive ("The board **may** provide a school or program with an additional 30 days to complete the application."), the Board seeks to create consistency and transparency in the manner that it will permit this extension of time and will help ensure that applicants have notice of these limited exceptions and the documentation required for the Board

to grant an extension. Given the purpose of AB 1536, which is to eliminate backlogs and provide for a timely application and approval process, the Board has determined that extensions should be granted only for “good cause” as specified in proposed section 2525. As explained under section 2525 rationale above, the Board has determined that, in its experience, these conditions constitute conditions that would be beyond the applicant’s control and therefore a reasonable basis for granting an extension in these limited cases. The citation to this cross-reference in this section would clarify that these are the circumstances under which the Board may grant such an extension authorized by the BPC.

Subsection (e)

A. Purpose: This subsection has been re-lettered from (b) to (e) to accommodate the proposed adoption of additional subsections.

B. Rationale: Re-lettering enables inclusion of additional and necessary items in list form.

Subsection (f)

A. Purpose: This subsection has been re-lettered from (c) to (f) to accommodate the proposed adoption of additional subsections.

B. Rationale: Re-lettering enables inclusion of additional and necessary items in list form.

Subsection (g)

A. Purpose: This subsection has been re-lettered from (d) to (g) to accommodate the proposed adoption of an additional subsection. Subsection (g) adds a new provision that no grounds for denial may exist pursuant to BPC section 480, which pertains to the Board’s general authority to deny an application on specified grounds (substantially-related criminal convictions, disciplinary action by another state board, knowingly false statements on the application). This proposal would add two new subsections to this existing section that further requires the Board to provide written notice of the action taken on the application and the effective date of the action in accordance with the relevant BPC sections (section 2881.2 or 4531.1) within six months from the date the Board receives the completed initial application. The written notice must also provide all of the following, as applicable: (1) a detailed invoice reflecting the costs incurred by the Board (in compliance with the Board’s regulations at 16 CCR 2537.2 or 2590.2), (2) if approval of the application is proposed by the Board, notice that approval is contingent on remittance of the final approval fee specified in the invoice, (3) the deadline for payment of the final approval fee, and (4) the consequences for failure to respond and pay the fee (as provided in BPC section 2881.3 or 4531.2).

B. Rationale: Re-lettering enables inclusion of additional and necessary items in list form. These new provisions are necessary to provide applicants, whether approved or not, with advance notice and documentation regarding the outcome of the Board’s review of their application according to the timelines set by BPC sections 2881.2 or 4531.1, and to provide an accurate way of documenting the actual costs of the Board’s oversight and review according to each application’s workload (via invoice according to 2537.2 or 2590.2). For approved applicants, the notice also would provide applicants with the information needed to complete the approval process, and that final approval is contingent on payment of the fee, and the consequences for failing to pay the fee (being placed on inactive list per BPC sections 2881.3 or 4531.2).

Subsection (h)

A. Purpose: This subsection adds a provision that provides notice to applicants that any material change in circumstances (affecting any information in the application or submitted in support of the application) after the submission of any application must be immediately communicated to the Board in writing. This subsection identifies a change in circumstance as “material” if, without the inclusion of the new or different information into the application, the information contained in or supporting documentation to the application would be false, misleading, or incomplete.

B. Rationale: This section is necessary to ensure that the Board receives current, accurate and complete information from applicants during the application process. Requiring material changes to be immediately communicated to the Board ensures that the Board only reviews the most relevant and recent information associated with the application and an application is not inadvertently denied due to the failure to provide corrected information in a timely manner.

Subsection (i)

A. Purpose: This subsection has been re-lettered from (e) to (i) to accommodate the proposed adoption of additional subsections. This subsection would be amended to specify that the approval period shall expire at 12 midnight four years from the date of issuance by the Board to avoid confusion regarding the exact time period for expiration after issuance of the approval.

B. Rationale: This is important to ensure that applicants understand when to submit their continuing approval applications in compliance with the requirements of these sections and to avoid a lapse in licensure. Applicants that submit a completed continuing approval application prior to expiration would have their current approval extended until a decision is rendered on the application in accordance with subsection (j). This is necessary to ensure fairness in the review process and consideration of students currently enrolled in the institution while allowing the Board sufficient time to review the application prior to rendering a decision.

This proposal would specify that a school or program that fails to apply for continuing approval prior to its expiration date must reapply as a new applicant in accordance with BPC sections 2881.3 or 4531.2 to again be considered an approved school or program. This requirement is necessary to implement a clear standard for continuing approval, for removing noncompliant programs from Board's approved schools list, to provide an incentive to submit timely, complete applications to the Board, and for the Board to ensure minimum standards for operating an approved school or program are rigorously enforced.

The subsection further adds a new provision for continuing approval that no grounds for denial may exist pursuant to the applicable Chapter(s) of the Board's regulations (16 CCR) or BPC section 480, which pertains to the Board's general authority to deny an application on specified grounds (substantially-related criminal convictions, disciplinary action by another state board, knowingly false statements on the application). The word "extension," has been replaced with "continuing approval," for clarity and consistency with existing references to "continuing approval" in the text and BPC sections 2881.2 and 4531.1.

Subsection (j)

A. Purpose: This subsection has been re-lettered from (f) to (j) to accommodate the proposed adoption of additional subsections. This subsection requires approved schools or program to apply for continuing approval by submitting a completed application for continuing approval as prescribed by this section.

B. Rationale: The Board is required to adequately provide oversight and review of approved institutions and determine whether the minimum standards under which the school's approval was issued continue to be met in compliance with the Vocational Nursing Practice Act or the Psychiatric Technicians Law and the Board's regulations (Article 5 of Chapter 1 (commencing with section 2525) and Article 5 of Chapter 2 (commencing with section 2581) in Division 25 of Title 16 of the California Code of Regulations (16 CCR).

The Board has determined that the completed application for continuing approval would include the following:

(1) Completed "Continuing Approval Application for a Vocational Nursing School or Program," Form 55M-15, (New 04/2022) or "Continuing Approval Application for a Psychiatric Technician School or Program," Form 56M-15, (New 04/2022). This form would be used by approved schools or programs to requalify for approval using substantially the same reporting standards used in the initial application (see description and rationale for these program requirements set forth above for sections 2526(c) and 2581(c)), but requiring reporting based on current operations, student enrollment, and implementation and with additional reporting requirements as set forth below. In addition, requiring resubmission of the applicant identifying information in

Sections 1-6 permits the Board to have the most current and updated information regarding the program, the applicant and any responsible officers, ownership, contact persons, or any recent disciplinary history (which may be grounds for denial pursuant to BPC section 480).

The following sections of the continuing approval application form include added reporting requirements that differ from the initial application's required disclosures to ensure that minimum operating standards under which the school was previously approved have been maintained:

- (A) *Section 13: Instructional Plan*: would require disclosure regarding whether the instructional plan is made available to all faculty to determine compliance with 16 CCR sections 2530 (VN schools) and 2585 (PT schools).
- (B) *Section 14: Daily Lesson Plans*: would require disclosure of copies of daily lesson plans to check compliance with 16 CCR sections 2530 and 2585 for courses of instruction in the subjects relative to the VN or PT program, including the following: for VN programs: (for theory and skills): diabetes, fundamentals, pediatrics, leadership and maternity; and, for PT programs: (for theory and skills): diabetes, fundamentals, leadership, mental disorders and developmentally disabled.
- (C) *Section 15: Evaluation Methodology for Curriculum*: would require submission of complete unredacted curriculum reviews based on the institution's stated methodology with a recommended 18-month sampling size. In the Board's experience, 18 months is a sufficient sampling of whether the evaluation methodology has been consistently followed. In addition, requiring the reviews to be unredacted helps to ensure accuracy and authenticity of the methods used by the institution and allows the Board to verify whether they were followed in each case.
- (D) *Section 17: Evaluation Methodology for Clinical Facilities*: would require submission of unredacted clinical facility evaluations based on the institution's stated methodology. In the Board's experience, 18 months is a sufficient sampling of whether the evaluation methodology has been consistently followed. In addition, requiring the reviews to be unredacted helps to ensure accuracy and authenticity of the methods used by the institution and allows the Board to verify whether they were followed in each case.
- (E) *Section 18: Admission Criteria*: would require submission of documentation that includes verification for current students enrolled in the program that the program follows its admission policy. For example, students' entrance examination results, health requirements, letters of recommendation, if noted in the program's stated admission policy. This section is necessary to determine

whether the institution's stated admissions policy is being followed for current students enrolled in the program and requires documentation to support the institution's compliance. Examples are provided to show the types of documentation that could be used to demonstrate compliance in accordance with the institution's stated admissions policy.

(F) *Section 21: Number of Students:* would require disclosure of all of the following information to demonstrate compliance with 16 CCR sections 2526 and 2530 (VN Schools) and sections 2581 and 2585 (PT schools) and the Board-approved number of students requirement:

- (i) The program's current pattern of admissions including frequency and number of students per class.
- (ii) If the program consists of more than one track, i.e., full-time and part-time, weekday and weekend, day and evening, the applicant would need to disclose enrollment and frequency for each track.
- (iii) Documentation showing current and projected student enrollment numbers in the program for the next four years.
- (iv) If alternate students are admitted, a copy of the information provided to alternate students to define the program's policy.

(G) *Section 23: Remediation:* would require submission of a copy of completed remediation forms or documentation of remediation for each student: (a) currently in remediation (b) previously in remediation during any time over the past four years; (c) or a document stating that there are no students on remediation for your program. In the Board's experience, requiring this documentation helps to ensure accuracy and authenticity of the methods used by the institution and allows the Board to verify whether they were followed in each case. Since remedial classes tend to increase students' time to degree attainment, the Board requires four years' worth of records to determine whether the institution's remediation policy is effective in helping students obtain the educational objectives of the program.

(H) *Section 24: Attendance policy:* would require submission of a current copy of the attendance policy and unredacted records/rosters of all student absences for the current terms or semesters. The record/roster must include the student's name and length of absence(s). If the attendance policy does not specify, the applicant must list the types of make-up assignment used for theory, skills lab, and clinical experience. In the Board's experience, requiring this documentation helps to ensure accuracy and authenticity of the methods used by the institution and allows the Board to verify whether they were followed in each case. To ensure an accurate and complete attendance policy, the Board requires that make-up assignments be specified in the narrative response to this question if not covered in the attendance policy.

(I) *Section 27: Credit Granting*: would require submission of documentation that verifies student acknowledgement and understanding of the credit granting policy with student signature and date. The Board requires this documentation and acknowledgement from the student as the most accurate way to verify that the credit granting policy is being followed as approved by the Board in compliance with 16 CCR sections 2535 or 2585.1, as applicable.

(J) *Section 28: Transfer of Credit*: would require submission of documentation for each new cohort (since the last approval) verifying that eligible students received or were denied transfer credit for courses listed in 16 CCR sections 2535(a) (VN programs) or 2585.1(a) (PT programs). The documentation must include the student's name, term/semester, student identification number, the status of the credit (approved/denied), and signature/date from the student and Program Director. This information is necessary to verify ongoing compliance with the requirements in sections 2535 or 2581.5. The Board requires this documentation, including acknowledgement from the student, as the most accurate way to verify that the transfer of credits policy is being followed as approved by the Board in compliance with 16 CCR sections 2535 or 2585.1, as applicable.

(K) *Section 29: Competency-based Credit*: would require, if applicable, submission of a list of names of all currently enrolled students who, upon admission, indicated related previous work experience. For each of these students, the applicant would be required to describe the testing, written or practical, conducted by the program, the amount of credit granted, and the curriculum area to which credit was applied. This information is necessary to determine compliance with 16 CCR sections 2535(b) (VN programs) or 2585.1(b) (PT programs), as applicable.

(L) *Section 31: Faculty Meeting Minutes*: would require submission of copies of each faculty attendance sheets and meeting minutes for each meeting over the past four years. Copies of records for no more than 16 meetings need to be submitted. This information is necessary to confirm compliance with 16 CCR sections 2530(b) (VN program) or 2585(b) (PT program). In the Board's experience, 16 meetings are a sufficient sampling of whether the requirements for regular faculty meetings have been consistently followed.

(M) *Section 32: Education Equivalency*: would require submission of a list of all currently enrolled students and proof of graduation from high school or the equivalency. This is necessary to determine the institution's compliance with 16 CCR sections 2530(g) (VN program) or 2585(g) regarding 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.

(N) *Section 34: Preceptorship:* would require disclosure of whether the program offers a preceptorship, and if answered “Yes,” provide the date of the Board’s approval of the preceptorship consistent with 16 CCR sections 2534.1 (VN programs) or 2588.1 (PT programs).

(O) *Section 35: Bureau for Private Postsecondary Education Approval:* would require, for private postsecondary educational institutions, to submit a copy of the official document indicating current approval by the California Bureau for Private Postsecondary Education to operate the school. This is necessary to confirm compliance with the institutional approval requirements contained in the California Private Postsecondary Education Act of 2009 (Education Code sections 94800 and following) and to allow the Board to investigate whether any disciplinary action has been taken by that agency as any such action may be grounds for denial of the application in accordance with BPC section 480.

(P) *Section 36: Fee Reduction Request:* BPC sections 2881.2(d) and 4531.1(d) state:

“The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in state funding that directly leads to a reduction in enrollment capacity.”

However, in actuality, the opposite is typically true; decreased enrollment causes a reduction in state funding as the number of students determine how much state funding each school receives.

To resolve the ambiguity in the statute, the Board tied the waiver to a minimum showing of reduction in enrollment since, as discussed, reductions in enrollment trigger losses in state funding, which is allotted based upon enrollment numbers and attendance. According to the budget for the US Department of Education: state funding and local funding to postsecondary institutions averages \$7,373 per student. Tuition accounts for 22.1% of all funding. (See underlying data at Hanson, Melanie. “U.S. Public Education Spending Statistics” EducationData.org, June 15, 2022, <https://educationdata.org/public-education-spending-statistics>).

Therefore, significant reduction in enrollment can cause significant financial loss to the public school or program. As a result, the Board elected to grant the full fee waiver to those who qualify when this cumulative decline in enrollment is over 10%. As explained, in the Board's experience, more than 10% decline in enrollment is a significant enough showing of revenue loss to warrant a 50% waiver of the continuing approval fee (up to this amount), which is \$2,500.

As a result, the continuing approval applications (see e.g., Form 55M-15 section 36) would require programs requesting a reduction in the continuing approval fee of \$5,000 per 16 CCR section 2537.2 or 2590.2 (the fee schedule requirements for calculating such reduction) based upon a reduction in state funding that directly leads to a reduction in enrollment, to provide a copy of the class rosters for the current semester or term, and the previous three consecutive semesters or terms, which demonstrate a cumulative decline in enrollment of more than 10%. This provision is necessary to implement requirements for the Board to reduce fees when the aforementioned conditions exist in accordance with BPC section 2881.2(d) and 4531.1(d). The Board requests copies of class rosters for the current semester or term, and the previous three consecutive semesters or terms as the Board believes that this sustained period of time showing an over 10% reduction is sufficient to demonstrate a cumulative decline and would therefore warrant a fee reduction as proposed in 16 CCR sections 2537.2 or 2590.2, as applicable.

(Q) *Certification under penalty of perjury requirement:* would require a signed attestation, under penalty of perjury, that the foregoing, and all attachments, are true and correct; this includes a requirement to provide the name, address, and date of the person signing the application. This information is necessary to determine who executed the application and obtain reliable evidence of applicant qualifications. Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications].) The Board relies upon applicants' self-reported information in evaluating applications. In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Board (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete, or accurate. ["The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true." *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.]

The application form contains an area to mark ("Document is attached? ___Yes ___No") throughout the form to alert applicants of the need to provide required documentation or information as set forth in each section.

Finally, the application form includes the required notices and disclosures to the applicant for the Board's collection of personal information in compliance with Civil Code section 1798.17.

Subsection (j) amendments (continued): The completed continuing approval application would also include the following:

(2) “Clinical Facility Verification Form – VN,” Form 55M-3A (New 04/2022) or “Clinical Facility Verification Form – PT,” Form 56M-3A (New 04/2022): please see description of purpose and rationale provided for these forms above.

(3) “Vocational Nursing or Psychiatric Technician Program Curriculum Content - Instructional Plan,” Form 55M-2W (New 04/2022): please see description of purpose and rationale provided for this form above.

(4) “Verification of Faculty Qualifications Form,” Form 55M-10 (New 04/2022); please see description of purpose and rationale provided for this form above.

(5) a completed “Summary of Instructional Plan Program Hours Vocational Nursing Program” Form 55M-2E (New 04/2022) or “Summary of Instructional Plan Program Hours Psychiatric Technician Program” Form 56M-2E: please see description of purpose and rationale provided for these forms above.

(6) Finally, this subsection at (j)(6) also requires as part of a completed continuing approval application the application fee of \$5,000, and states that it may be reduced in accordance with section 2537.2 or 2590.2 of the Board’s regulations, and these sections. This is necessary to provide applicants with a complete understanding of what is required by the Board for a completed continuing approval application and to help avoid an application from being taken out of consideration in accordance with BPC section 2881.3 or 4531.2, as applicable, due to failure to provide all required information and/or fees.

Subsection (k)

A. Purpose: This subsection adds that within 60 days of the date the Board receives a completed continuing approval application, the Board shall communicate in writing what deficiencies exist, and what additional documents or fees are required to make the application complete. Subsection (k) also provides that the institution has 30 days from the date of the Board’s written notice to provide the missing information and that failure to do so will render the institution ineligible for continuing approval.

B. Rationale: This information is necessary to provide the regulated community with written documentation and notice of when the Board may complete its assessment and review. The Board believes that this timeline will allow the Board sufficient time to review and assess an application for completeness while balancing the need for applicants to receive a timely review of their pending continuing approval application. In the Board’s experience, 30days’ response time should provide an institution with

sufficient time to address any deficiencies identified by the Board for its pending continuing approval (renewal) application.

Subsection (l)

A. Purpose: This subsection adds that within 90 days of the date the Board provides written notice to the institution that its continuing approval application is complete, the Board shall act to approve, grant provisional approval in accordance with section 2526.1 or 2581.1, or notify the institution that the application is denied and provide the effective date of such actions. The written notice shall also include a detailed fee statement, and notice of refund, if applicable.

B. Rationale: These provisions are necessary to provide applicants with advance notice and documentation regarding the outcome of the Board's review of their application, and to provide an accurate way of documenting the actual costs of the Board's oversight and review according to each application's workload (via a fee payment statement calculated according to 2537.2 or 2590.2, as applicable).

These provisions are also necessary to provide a method for providing a reduction in fees for those cases where fee reductions are mandated by BPC section 2881.2 or 4531.1, as follows: (a) for those cases where the actual costs of the Board's oversight and review are less than the \$5,000 fee initially charged, or (b) in cases where the institution qualifies for a fee reduction based upon a reduction in state funding as provided in subsection (d) of BPC sections 2881.2 or 4531.1. To ensure that the Board recovers the fees it earned in processing the continuing approval application, the method proposed for addressing the actual costs of oversight and review fee calculation is to provide a fee statement calculating the actual costs and, if applicable, the anticipated date of refund for those applicants that qualify for a fee reduction, if there is a remainder after the Board subtracts its actual costs from the \$5,000 fee charged up front for the continuing approval application.

A. Purpose: This subsection has been re-lettered from (g) to (m) to accommodate the proposed adoption of additional subsections.

B. Rationale: Re-lettering enables inclusion of additional and necessary items in list form.

Subsection (n)

A. Purpose: This subsection proposes to permanently relocate to this section the Board's existing alternate student admission criteria, currently located in section 2526(a)(14) of Article 5 of Chapter 1 and section 2581(a)(14) of Article 5 of Chapter 2 of Division 25 of Title 16 of the California Code of Regulations.

B. Rationale: In the Board's experience, these standards continue to be relevant student admission criteria for ensuring that the institution does not exceed the number of

students approved by the Board for the institution. The existing standards generally have received a positive response from the regulated community as they set clear guidelines for ensuring that Board approved requirements for admission are continuously met if the institution elects to admit alternative students; it also sets standards to ensure fair notice to students who may be admitted to a program as an alternate.

These standards include:

- (1) A school may admit alternate students in each new class to replace students who may drop out.
- (2) The number of alternate students admitted may not exceed 10% of the school's Board-approved number of students per class.
- (3) Prior to admission, alternate students must be informed in writing of their alternate status and that they may be dropped from the program.
- (4) Alternate students may participate in classes until the commencement of scheduled clinical experience at approved clinical facilities.
- (5) Upon commencement of clinical experience at approved clinical facilities, the actual number of students in the class may not exceed the number of students approved by the Board for that particular class.

7. Adopt New Title and Section 2537.2 to Article 6 of Chapter 1 of Division 25 of Title 16 of the California Code of Regulations – Prelicensure Education Provider Fees

A. Purpose: This section is proposed to implement, interpret, and make specific BPC section 2881.2(b) and the fee schedule for schools or programs of vocational nursing seeking approval by the Board. It would adopt a new title and section entitled "Prelicensure Education Provider Fees."

B. Rationale: The new title and section entitled "Prelicensure Education Provider Fees" allows for easier comprehension of the purpose of this section and for better organization within this Article. For easier comprehension, it would include an introductory sentence that would clarify the purpose of this new section: to establish the listed fees pursuant to BPC section 2881.2.

Subsection (a)

A. Purpose: To establish the initial application fee for any applicant for approval of a new school or program of vocational nursing, which is proposed at five thousand dollars (\$5,000) pursuant to BPC section 2881.2(b).

B. Rationale: The Board is a self-supporting, special fund agency that obtains its revenues from licensing, certification, examination, permit, renewal, delinquency and application fees. Under BPC section 2881.2, the Board is specifically authorized to collect fees up to \$5,000 for the reasonable costs incurred by the Board in reviewing and processing the initial application. This fee is necessary for the Board to recover its administrative costs for processing the application. It is based upon the Board's cost analysis for providing all such services for this application (see Underlying Data).

Subsection (b)

A. Purpose: To establish that the final approval fee for any applicant for approval of a new school or program of vocational nursing is fifteen thousand dollars (\$15,000), pursuant to BPC 2881.2(b)(2)(A) unless the institution is entitled to a decrease in fees as provided in subsections (c) or (d), in which case the final approval fee shall be calculated as provided in those subsections.

B. Rationale: Under BPC section 2881.2, the Board is specifically authorized to collect fees up to \$15,000 for the reasonable costs incurred by the Board in the application approval process. This fee is necessary for the Board to recover its administrative costs for processing the application. It is based upon the Board's cost analysis for providing all services for this application (see Underlying Data). This provision is necessary to provide notice of a sliding scale of final approval fees based on affiliation between schools or actual costs in accordance with the requirements of subsections (b) and (c) of BPC section 2881.2.

Subsection (c)

A. Purpose: To establish that the final approval fee for any applicant for approval of a new school or program of vocational nursing providing documentation of the criteria of BPC section 2881.2(b)(2)(B)(i) as a school "affiliated with an approved school or program," is five thousand dollars (\$5,000).

B. Rationale: This provision is necessary to establish the fee for schools demonstrating such affiliation as required by BPC section 2881.2(b)(2)(B)(i), and also is necessary to provide fair and adequate notice of how the Board will determine whether such affiliation exists. It specifies the documentation required (which includes a signed and dated agreement between the applicant and other approved institution to verify that such a legally binding relationship exists), and interprets the phrase "in good standing" as that term is not defined in BPC section 2881.2. To ensure there is no confusion about eligibility for this reduction and the need for no further review of curriculum by the Board, the Board proposes to limit the affiliation reduction only to those applicants who are affiliated with an approved school "in good standing." The proposal would define "in good standing" as meaning "current and active with no provisional approval" as the

Board interprets this provision to mean that the school is currently able to operate without any restrictions (provisional approval is for a school who has not met all the Board's requirements, a form of discipline or restricted licensure per 16 CCR section 2526.1). In other words, only affiliation with schools with a full, unrestricted approval would render an applicant eligible for the reduction.

Subsection (d)

A. Purpose: The Board proposes to provide each institution an itemized invoice that shows the costs for providing oversight and review of an institution expressed in a total dollar value number. If the total dollar value number for the Board's costs is less than the amount set forth in subsection (b), the final approval fee shall be reduced to the total value number and reflected in the invoice provided to the institution, pursuant to section 2526.

B. Rationale: BPC section 2881.2(c) requires the following:

"If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board's reasonable costs associated with that school or program."

BPC section 2881.2 is silent as to how that determination and the resulting reduction in fees are calculated if the costs of oversight and review for the particular school or program application is less than the initially charged fee set forth in section 2526. This provision is therefore necessary to provide a method for calculating and providing notice to affected applicants of the actual costs the Board is charging for oversight and review in accordance with BPC section 2881.2(c). The Board proposes that the determination be based upon the total "reasonable costs for providing oversight and review" as defined in proposed section 2525(h), which is the most accurate way for the Board to determine its costs for processing and review as it is based upon actual expenses allocated to the Board for these functions. If this total expense amount is less than the amount charged up front, then the final approval fee is reduced to the actual costs as set forth in an invoice to the institution. Such fee reduction would be provided via refund as provided in Section 2526 and as cross-referenced in this section. This provides a simple way for applicants to receive notice and understand the actual costs of the oversight and review of their institution (via detailed invoice) and how such costs will be calculated.

Subsection (e)

A. Purpose: The Board proposes that the fee submitted with any continuing approval application required by section 2526 shall be five thousand dollars (\$5,000) unless the Board makes an initial determination that the continuing approval fee should be

decreased in accordance with subsections (f) or (g).

B. Rationale: BPC section 2881.2(b)(3) authorizes the Board to charge a continuing approval fee (renewal-type fee) in an amount equal to the reasonable costs incurred by the Board in providing oversight and review of a school or program up to \$5,000 once every four years. This fee is necessary for the Board to recover its administrative costs for processing the continuing approval application. It is based upon the Board's cost analysis for providing all services for this application (see Underlying Data). In addition, this subsection provides notice of a sliding scale of continuing approval fees based on reduction in state funding or actual costs in accordance with the requirements of subsections (b) and (c) of BPC section 2881.2.

Subsection (f)

A. Purpose: The Board proposes that the continuing approval fee for any approved school or program of vocational nursing which provides documentation with the continuing approval application in subsection (j) of section 2526 for reduction in state funding resulting from reduced enrollment is two thousand five hundred dollars (\$2,500).

Documentation required for proof of reduction in state funding is required to be submitted with the application as specified, and this proposal also specifies the consequences for failing to provide the documentation (results in the \$5,000 continuing approval fee to be assessed), unless the applicant also qualifies for a reduction based upon actual costs in accordance with subsection (g).

B. Rationale: BPC section 2881(d) provides:

The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in state funding that directly leads to a reduction in enrollment capacity. The board shall require a program to provide documentation for the purposes of issuing the fee delay.

However, the statute is silent as to how to determine whether a program "experiences" a reduction in state funding that leads to a reduction in capacity or how the program would document such a reduction in state funding. This provision is therefore necessary to set such consistent standards and provide notice of a sliding scale of continuing approval fees based on reduction in state funding or reduction of actual costs in accordance with the requirements of subsection (c) and (d) of BPC sections 2881.2. As explained above, under this proposal, the Board elected to grant the full fee waiver allowed by the statute to those who qualify when most revenue is tied to student enrollment numbers and not tuition and, this enrollment decline means that the revenue loss is serious for a school or program. In the Board's experience, more than 10% decline in enrollment is a significant enough showing of revenue loss to warrant a 50% waiver of the continuing approval fee (up to this amount), which is \$2,500. As a result,

the continuing approval applications (see e.g., Form 55M-15 section 36) and this section describe that the applicant may qualify for this reduction by demonstrating a cumulative decline in enrollment of more than 10%. To prove such cumulative decline, this section proposes to require the most recent, relevant and typical data that a school or program would provide to show an accurate snapshot of a public school's current enrollment decline over a significant period of time, including: a copy of the school or programs class rosters for the current semester or term and the previous three consecutive semesters or terms.

Regardless, if the applicant does not qualify for a reduction in the continuing approval fee based upon a reduction in state funding, the proposal specifies that the institution may still qualify for reduction based upon the reasonable (actual) costs of processing the continuing approval application in accordance with BPC section 2881.2(c) and more specifically described in subsection (g) of this section. This provision is necessary to provide notice to affected institutions and to set consistent standards for how to accurately assess how an institution may qualify for a reduction of the continuing approval fee.

Subsection (g)

A. Purpose: Within 30 days of the date the Board receives a completed continuing approval application as provided in section 2526, the Board shall provide each institution an itemized invoice that shows the costs for providing oversight and review of an institution expressed in a total dollar value number. If the total dollar value number for the Board's costs is less than the amount set forth in subsection (e), the continuing approval fee shall be reduced to the actual cost of the oversight and review. The institution shall be notified of the refund for the overpayment that will be provided in accordance with section 2526's notice procedures.

B. Rationale: This provision is necessary to provide a method for providing notice to affected applicants of the actual costs the Board is charging for oversight and review in accordance with BPC section 2881.2(c) and how such costs, if less than originally charged, will result in a reduction in the actual fees charged via a refund process. The Board proposes that the determination be based upon the total "reasonable costs for providing oversight and review" as defined in proposed section 2525(h), which is the most accurate way for the Board to determine its costs for processing and review as it is based upon actual expenses allocated to the Board for these functions. If this total expense amount is less than the amount charged up front, then the continuing approval fee is reduced to the actual costs as set forth in an invoice to the institution. Such fee reduction would be provided via refund as provided in Section 2526 and as cross-referenced in this section. This provides a simple way for applicants to receive notice of their application's actual costs and, where applicable, of money to be refunded due to a reduced fee, while balancing the need for the Board to receive its earned application fees up front to ensure that the Board can continue its business operations.

8. Adopt New Title and Section 2590.2 to Article 6 of Chapter 2 of Division 25 of Title 16 of the California Code of Regulations – Prelicensure Education Provider Fees

A. Purpose: This section is proposed to implement, interpret, and make specific BPC section 4531.1(b) and the fee schedule for schools or programs for the preparation of psychiatric technicians seeking approval by the Board. For easier comprehension, it would adopt a new title and section entitled “Prelicensure Education Provider Fees.”

B. Rationale: The new title and section entitled “Prelicensure Education Provider Fees” allows for easier comprehension of the purpose of this section and for better organization within this Article. It would include an introductory sentence that would clarify the purpose of this new section: to establish the listed fees pursuant to BPC section 4531.1.

Subsection (a)

A. Purpose: To establish the initial application fee for any applicant for approval of schools or programs for the preparation of psychiatric technicians, which is five thousand dollars (\$5,000) pursuant to BPC section 4531.1.

B. Rationale: The Board is a self-supporting, special fund agency that obtains its revenues from licensing, certification, examination, permit, renewal, delinquency and application fees. Under BPC section 4531.1(b)(1), the Board is specifically authorized to collect fees up to \$5,000 for the reasonable costs incurred by the Board in reviewing and processing the initial application. This fee is necessary for the Board to recover its administrative costs for processing the application. It is based upon the Board’s cost analysis for providing all services for this application (see Underlying Data).

Subsection (b)

A. Purpose: The final approval fee for any applicant for approval of a new school or program for preparation of psychiatric technicians is fifteen thousand dollars (\$15,000), unless the institution is entitled to a decrease in fees as provided in subsections (c) or (d), in which case the final approval fee shall be calculated as provided in those subsections.

B. Rationale: Under BPC section 4531.1(b)(2), the Board is specifically authorized to collect final approval fees up to \$15,000 for the reasonable costs incurred by the Board in the application approval process. This fee is necessary for the Board to recover its administrative costs for processing the application. It is based upon the Board’s cost analysis for providing all services for this application (see Underlying Data). This provision is necessary to provide notice of a sliding scale of final approval fees based

on affiliation between schools or actual costs in accordance with the requirements of subsections (b) and (c) of BPC section 4531.1.

Subsection (c)

A. Purpose: To establish the final approval fee for any applicant for approval of a new school or program for preparation of psychiatric technicians providing documentation of the criteria of BPC section 4531.1(b)(2)(B)(i) as a school “affiliated with an approved school or program,” which is five thousand dollars (\$5,000).

B. Rationale: This provision is necessary to establish the fee for schools demonstrating such affiliation as required by BPC section 4531.1(b)(2)(B)(i), and also is necessary to provide fair and adequate notice of how the Board will determine whether such affiliation exists. It specifies the documentation required (which includes a signed and dated agreement between the applicant and other approved institution to verify that such a legally binding relationship exists), and interprets the phrase “in good standing” as that term is not defined in BPC section 4531.1. To ensure there is no confusion about eligibility for this reduction, and the need for no further review of curriculum by the Board, the Board proposes to limit the affiliation reduction only to those applicants who are affiliated with an approved school “in good standing.” The proposal would define “in good standing” as meaning “current and active with no provisional approval” as the Board interprets this provision to mean that the school is currently able to operate without any restrictions (provisional approval is for a school who has not met all the Board’s requirements, a form of discipline or restricted licensure per 16 CCR section 2581.1). In other words, only affiliation with schools with a full, unrestricted approval would render an applicant eligible for the reduction.

Subsection (d)

A. Purpose: The Board proposes to provide each institution an itemized invoice that shows the costs for providing oversight and review of an institution expressed in a total dollar value number. If the total dollar value number for the Board’s costs is less than the amount set forth in subsection (b), the final approval fee shall be reduced to the actual cost of the oversight and review, pursuant to section 2581.

B. Rationale: BPC section 4531.1(c) requires the following:

“If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board’s reasonable costs associated with that school or program.”

BPC section 4531.1 is silent as to how that determination is made and the resulting

reduction in fees are calculated if the costs of oversight and review for the particular school or program application is less than the initially charged fee set forth in section 2581. This provision is therefore necessary to provide a method for calculating and providing notice to affected applicants of the actual costs the Board is charging for oversight and review in accordance with BPC section 4531.1(c). The Board proposes that the determination be based upon the total “reasonable costs for providing oversight and review” as defined in proposed section 2580(h), which is the most accurate way for the Board to determine its costs for processing and review as it is based upon actual expenses allocated to the Board for these functions. If this total expense amount is less than the amount charged up front, then the final approval fee is reduced to the actual costs as set forth in an invoice to the institution. Such fee reduction would be provided via refund as provided in Section 2581 and as cross-referenced in this section. This provides a simple way for applicants to receive notice and understand the actual costs of the oversight and review of their institution, via detailed invoice and how such costs will be calculated.

Subsection (e)

A. Purpose: The Board proposes that the fee submitted with any continuing approval application required by section 2581 shall be five thousand dollars (\$5,000) unless the Board makes an initial determination that the continuing approval fee should be decreased in accordance with subsections (f) or (g).

B. Rationale: BPC section 4531.1(b)(3) authorizes the Board to charge a continuing approval fee (renewal-type fee) in an amount equal to the reasonable costs incurred by the Board in providing oversight and review of a school or program up to \$5,000 once every four years. This fee is necessary for the Board to recover its administrative costs for processing the continuing approval application. It is based upon the Board’s cost analysis for providing all services for this application (see Underlying Data). In addition, this subsection provides notice of a sliding scale of continuing approval fees based on reduction in state funding or actual costs in accordance with the requirements of subsections (b) and (c) of BPC section 4531.1.

Subsection (f)

A. Purpose: The Board proposes that the continuing approval fee for any approved school or program of vocational nursing which provides documentation with the continuing approval application in subsection (j) of section 2581 for reduction in state funding resulting from reduced enrollment is two thousand five hundred dollars (\$2,500).

Documentation required for proof of reduction in state funding is required to be submitted with the application as specified, and this proposal also specifies the consequences for failing to provide the documentation results in the \$5,000 fee to be

assessed, unless the applicant also qualifies for a reduction based upon actual costs in accordance with subsection (g).

B. Rationale: BPC section 2881(d) provides:

“The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in state funding that directly leads to a reduction in enrollment capacity. The board shall require a program to provide documentation for the purposes of issuing the fee delay.”

However, the statute is silent as to how to determine whether a program “experiences” a reduction in state funding that leads to a reduction in capacity or how the program would document such a reduction in state funding. This provision is therefore necessary to set such consistent standards and provide notice of a sliding scale of continuing approval fees based on reduction in state funding or actual costs in accordance with the requirements of subsections (c) and (d) of BPC sections 4531.1.

As explained above, under this proposal, the Board elected to grant the full fee waiver allowed by the statute to those who qualify when most revenue is tied to student enrollment numbers and not tuition and, this enrollment decline means that the revenue loss is serious for a school or program. In the Board's experience, more than 10% decline in enrollment is a significant enough showing of revenue loss to warrant a 50% waiver of the continuing approval fee (up to this amount), which is \$2,500. As a result, the continuing approval applications and this section describe that the applicant may qualify for this reduction by demonstrating a cumulative decline in enrollment of more than 10%. To prove such cumulative decline, this section proposes to require the most recent, relevant and typical data that a school or program would provide to show an accurate snapshot of a public school's current enrollment decline over a significant period of time, including: a copy of the school or programs class rosters for the current semester or term and the previous three consecutive semesters or terms.

Regardless, if the applicant does not qualify for a reduction in the continuing approval fee based upon a reduction in state funding, the proposal specifies that the institution may still qualify for reduction based upon the reasonable (actual) costs of processing the continuing approval application in accordance with BPC section 4531.1(c) and more specifically described in subsection (g) of this section. This provision is necessary to provide notice to affected institutions and to set consistent standards for how to accurately assess how an institution may qualify for a reduction of the continuing approval fee.

Subsection (g)

A. Purpose: Within 30 days of the date the Board receives a completed continuing

approval application as provided in section 2581, the Board shall provide each institution an itemized invoice that shows the costs for providing oversight and review of an institution expressed in a total dollar value number. If the total dollar value number for the Board's costs is less than the amount set forth in subsection (e), the continuing approval fee shall be reduced to the actual cost of the oversight and review. The institution shall be notified of the refund for the overpayment that will be provided in accordance with section 2581's notice procedures.

B. Rationale: This provision is necessary to provide a method for providing notice to affected applicants of the actual costs the Board is charging for oversight and review in accordance with BPC section 4531.1(c) and how such costs, if less than originally charged, will result in a reduction in the actual fees charged via a refund process. The Board proposes that the determination be based upon the total "reasonable costs for providing oversight and review" as defined in proposed section 2580(h), which is the most accurate way for the Board to determine its costs for processing and review as it is based upon actual expenses allocated to the Board for these functions. If this total expense amount is less than the amount charged up front, then the continuing approval fee is reduced to the actual costs as set forth in an invoice to the institution. Such fee reduction would be provided via refund as provided in Section 2581 and as cross-referenced in this section. This provides a simple way for applicants to receive notice of their application's actual costs and, where applicable, of money to be refunded due to a reduced fee, while balancing the need for the Board to receive its earned application fees up front to ensure that the Board can continue its business operations.

Underlying Data

- a) Assembly Bill 1536 (Assembly Committee on Business and Professions, Chapter 632, Statutes of 2021)
- b) September 10, 2021 Assembly Committee on Business and Professions Analysis (Chee, V)
- c) April 7, 2022 Board Meeting Agenda
- d) April 7, 2022 Board Meeting Minutes
- e) April 7, 2022 Board Meeting Material Agenda Item 7 - Memorandum to Initiate an Emergency Rulemaking
- f) June 27, 2022 Notice of Approval for Office of Administrative Law (OAL) File No. 2022-0616-03E
- g) OAL File No. 2022-0616-03E Errata Memorandum
- h) Program Application Process Public Stakeholder Meeting Agenda
- i) Program Application Process Public Stakeholder Meeting Minutes
- j) Program Application Process Public Stakeholder Survey Responses
- k) Hanson, Melanie. "U.S. Public Education Spending Statistics" EducationData.org, June 15, 2022, <https://educationdata.org/public-education-spending-statistics>

Business Impact:

This regulation may have an economic impact on businesses, specifically, schools or educational programs seeking Board approval or continuing approval. However, the proposed regulations will not have a significant statewide adverse economic impact on businesses, including the ability to compete with businesses in other states. This determination is based upon the following facts.

This initial determination is based on the following estimates:

- The Board estimates that approximately 250 businesses will be impacted by this proposal.
- The Board estimates that the economic impact of this proposal will be below \$10 million.

Pursuant to AB 1536, the proposed regulations establish fees charged to schools as follows:

- Initial Application: Up to \$5,000
- Final Approval: (Option #1) Up to \$5,000 for schools and programs affiliated with a currently registered school in good standing, or (Option #2) Up to \$15,000 for all other schools and programs
- Continuing Approval: Up to \$5,000 once every four years for registered schools and programs

Initial Application/Final Approval: The Board anticipates initial applications, final approval rates, and costs as follows:

- Year-1: 11 Unaffiliated (\$220,000) & 4 Affiliated (\$40,000)
- Year-2: 21 Unaffiliated (\$420,000) & 5 Affiliated (\$50,000)
- Year-3: 18 Unaffiliated (\$360,000) & 2 Affiliated (\$20,000)
- Ongoing: 13 Unaffiliated (\$260,000) & 2 Affiliated (\$20,000)

Total estimated costs range from \$260,000 to \$470,000 per year and up to \$3,070,000 over a ten-year period.

Continuing Approval: The Board currently has 156 registered schools scheduled to submit a continuing approval application per the four-year renewal cycle and incur costs as follows:

- Year-1: 44 schools (\$220,000)
- Year-2: 29 schools (\$145,000)
- Year-3: 29 schools (\$145,000)
- Year-4: 54 schools (\$270,000)

- Year-5: 59 schools (\$295,000)
- Year-6: 55 schools (\$275,000)
- Year-7: 49 schools (\$245,000)
- Year-8: 69 schools (\$345,000)
- Year-9: 74 schools (\$370,000)
- Year-10: 70 schools (\$350,000)

Total estimated costs related to continuing approval range from \$145,000 to \$370,000 per year and up to \$2,660,000 over a ten-year period.

Total Costs: The proposed regulations result in total costs ranging from \$480,000 to \$650,000 per year and up to \$5,730,000 over a ten-year period. The Board notes, notwithstanding the proposed regulations, these schools would have otherwise incurred costs (including facilities, staffing, clinical placement, and other) as part of normal business operations. As a result, these costs are not included in this analysis.

The Board further notes, any student enrolling in these schools would have otherwise incurred costs (including tuition, books, and other) as part of enrollment, and paid examination and license fees to apply for licensure with the Board. As a result, these costs are not included in this analysis.

Additionally, the Board acknowledges schools may opt to pass on costs to students resulting from the proposed regulations, but any operational decisions made by an individual institution is unknown at this time and therefore not included in this analysis.

The Board also notes, the proposed regulations provide for a continuing approval fee reduction to \$2,500 related to reduced student enrollment and state funding, as specified. However, the Board does not anticipate employing these provisions because student enrollment rates are projected to increase in the future.

Economic Impact Assessment:

The Board has determined that the economic impact of this regulatory proposal will be below 10 million dollars and will have the following effects:

The proposed rulemaking will neither create new business or jobs nor eliminate existing business or jobs within California because the proposed program approval process and its associated fees are anticipated to have minimal impact on businesses as described in the “Business Impact” estimate section of this document. The proposed rulemaking will not affect the expansion of businesses currently doing business within the state because the impact on businesses will be minimal as described in the “Business Impact” estimate section of this document. The proposal would impose fees associated

with the approval and continuing approval of schools or institutions offering a curriculum for training licensed vocational nurses and psychiatric technicians.

Qualified prelicensure programs must be approved consistently and timely to ensure that the workforce pipeline of licensed vocational nurses and psychiatric technicians can support the health and well-being of Californians. This regulatory proposal would create those standards, and therefore benefits the health and welfare of California residents because it will have a positive impact on the pipeline of schools or institutions approved to offer curriculum for training licensed vocational nurses and psychiatric technicians, thus increasing the number of qualified professions to enter the healthcare workforce.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal does not affect the state's environment because it does not involve the environment.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

No such alternatives have been proposed, however, the Board welcomes comments from the public.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.