



Board of Vocational Nursing and Psychiatric Technicians

Mandatory Reporting Forum

June 24, 2008 (Sacramento)

June 26, 2008 (Los Angeles)

Mission of the Board

*The mission of the Board of Vocational Nursing and Psychiatric Technicians is to **protect the public**. Public protection is paramount to the Board and its **highest priority** in exercising its licensing, regulatory and disciplinary functions. Toward this end, the Board ensures that only qualified persons are licensed vocational nurses and psychiatric technicians by enforcing education requirements, standards of practice and by educating consumers of their rights.*



Presentation Outline

- Historical Information
- Reporting Requirements for Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs)
- Reporting Requirements for Employers of LVNs and PTs
- How to Report Violations
- Failure to Report - Consequences



Historical Information

Senate Bill 358 (Statutes of 2003, Chapter 640)

- Introduced to enhance consumer protection.
- Effective January 1, 2004.
- Added sections 2878.1 (LVN) and 4521.2 (PT) to the Business and Professions Code (Code).

Historical Information

(continued)

- Established mandatory reporting requirements for LVNs and PTs to report unprofessional conduct by another LVN or PT.
- Established mandatory reporting requirements for employers of LVNs and PTs to report suspensions or terminations for cause.
- Implementation was contingent upon the necessary funding in the Board's annual Budget Act.

Historical Information

(continued)

**Division 25 of Title 16 of the California Code of Regulations (CCR),
Chapters 1 and 2, Sections 2523 - 2523.6 (LVN) and 2579.2 - 2579.8 (PT)**

- Revisions to the CCR were necessary to implement the statutes.
- On May 13, 2005, the Board adopted recommendations to add, amend or repeal sections in the CCR pertaining to mandatory reporting requirements.
- The Board began the rulemaking process but was notified that the proposed regulations would not be approved until the Board obtained budget authority to implement.



Historical Information

(continued)

- The Board needed to increase its fees to ensure that sufficient money was available in its fund.
- New fee regulations were approved by the Office of Administrative Law (OAL) in June 2006 and became effective January 1, 2007.
- On September 8, 2006, the Board adopted recommendations to add, amend or repeal sections in the CCR pertaining to mandatory reporting requirements.



Historical Information

(continued)

- Effective July 1, 2007, a Budget Change Proposal to hire additional enforcement staff was approved by the governor.
- Revisions to the CCR were effective October 11, 2007.
- In October/November 2007, the Board notified licensees, employers and the public regarding the new requirements.

Reporting Requirements for LVNs and PTs

- Must report to the Board any known violation of the law committed by another LVN or PT.
- Shall report violations to the Board, in writing, within 30 calendar days of becoming aware of the violation.
- Reporting licensee must cooperate with the Board in furnishing information or assistance as required.

Reportable Violations (Licensees)

- Unprofessional conduct including but not limited to:

- Incompetence.

CCR sections 2520 (LVN) and 2577.1 (PT)

“...the lack of possession of and the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by responsible LVNs/PTs.”

Reportable Violations (Licensees)

(continued)

- **Gross negligence**

CCR sections 2519 (LVN) and 2577 (PT)

“...a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent LVN/PT, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the above standard of care.”

Reportable Violations (Licensees)

(continued)

- Use of excessive force upon or the mistreatment or abuse of any patient.
- Failure to maintain confidentiality of patient medical information.
- Commission of any act of dishonesty when that action is related to the duties and functions of the licensee.



Reportable Violations (Licensees)

(continued)

- Knowing failure to protect patients by failing to follow infection control guidelines.
- Illegal possession, prescribing or self administration of controlled substances.
- Illegal use of drugs or alcohol posing a danger to the public and impairing practice.



Reportable Violations (Licensees)

(continued)

- Confinement or committal by a court for addiction.
- Falsified, grossly inconsistent or unintelligible entries regarding controlled substances.



Reporting Requirements for Employers of LVNs and PTs

- Must report to the Board any suspension or termination for cause of an LVN or PT in their employ.
- Shall report violations to the Board, in writing, within 30 calendar days of the effective date of the suspension or termination.

Reportable Suspensions/Terminations (Employers)

- “Suspension or termination for cause” is defined as suspension or termination from employment for any of the following reasons:
 - Use of controlled substances or alcohol to the extent that it impairs the licensee’s ability to safely practice.
 - Unlawful sale of a controlled substance or other prescription items.

Reportable Suspensions/Terminations

(Employers)

(continued)

- Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.
- Falsification of medical records.
- Gross negligence or incompetence.
- Theft from patients or clients, other employees, or the employer.



How to Report Violations

■ **LVNs or PTs:**

- May complete the “Licensee Mandatory Reporting Form” available on the Board’s website; or
- Write to the Board’s Enforcement Division.

■ **Employers:**

- May complete the “Employer Mandatory Reporting Form” available on the Board’s website; or
- Write to the Board’s Enforcement Division.



How to Report Violations

(continued)

Board's Address:

BVNPT

2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833

Email: bvnpt@dca.ca.gov



Documents that may be requested:

- All documentation regarding suspension or termination.
- Employee duty statement.
- Employee work schedule and assignment sheet.
- Drug/alcohol test results.
- Any other supporting documentation.



Failure to Report - Consequences

- Failure of an LVN or PT to report:
 - Constitutes unprofessional conduct.
 - May result in disciplinary action or a citation and fine.
- Failure of an employer of an LVN or PT to report:
 - May result in a citation and fine up to \$10,000 per violation.



Overview of Citations and Fines

CCR sections 2523 - 2523.6 (LVN) and 2579.2 - 2579.8 (PT)

- The Executive Officer (EO) of the Board or designee may issue citations and fines.
- Citations must be in writing and describe the nature and facts of each violation.



Overview of Citations and Fines

(continued)

- A citation must inform the cited person of the right to an informal conference and the right to an administrative hearing.
- Three classes of citations.



Overview of Citations and Fines

(continued)

- **Class A**
 - Issued to employers who fail to report to the Board the suspension or termination for cause of an LVN or PT.
 - Fine shall not exceed \$10,000 per violation.

Overview of Citations and Fines

(continued)

- **Class B**

- Issued to licensees.

- Fine shall be no less than \$1,001 nor more than \$2,500.



Overview of Citations and Fines

(continued)

- Class C
 - Issued to licensees.
 - Fine shall not exceed \$1,000.

Overview of Citations and Fines

(continued)

■ Contested Citations

- A cited licensee or employer may, within 14 calendar days after service of the citation, submit a written request for an informal citation review with the EO or designee.
- Within 30 calendar days from the receipt of the written request, the EO must hold an informal conference.



Overview of Citations and Fines

(continued)

- The EO may affirm, modify or dismiss the citation, including any fine or order of abatement, at the conclusion of the informal conference.
- A written decision stating the reasons for the decision shall be mailed within 14 calendar days from the date of the informal conference.

Overview of Citations and Fines

(continued)

- If the citation is dismissed during the informal conference:
 - Any request for an administrative hearing shall be deemed withdrawn.

- If the citation is affirmed or modified:
 - Cited person may request an administrative hearing within 30 days of the date of the issuance of the written informal conference decision.
 - The request for an administrative hearing shall be in writing.

Overview of Citations and Fines

(continued)

- Failure of a cited person to appear for a scheduled informal citation review conference:
 - Shall be deemed a withdrawal of any request for an administrative hearing if the Board sends written notice to the cited person of the consequence;
 - And the cited person does not inform the Board otherwise, in writing, within 10 calendar days of the notice.



Overview of Citations and Fines

(continued)

- The cited person may request an administrative hearing provided for in subdivision (b)(4) of Section 125.9 of the Business and Professions Code within 30 days of the date of issuance of the citation or assessment.

Overview of Citations and Fines

(continued)

- Uncontested Citations or Cited Person Does Not Prevail After Appeal
 - Failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation and order.
 - Failure to timely comply with an order of abatement or pay an assessed fine may result in further action being taken which may include discipline against a licensee or other appropriate judicial relief being taken against the cited licensee or employer.



Overview of Citations and Fines

(continued)

- If a fine issued to a licensee is not paid after a citation has become final, the fine shall be added to the cited person's license renewal fee. A license shall not be renewed without payment of the renewal fee and fine.

Statistical Data

(October 11, 2007 – May 31, 2008)

Cases received from licensee reports	3
Cases received from employer reports	67
Citations/fines issued to licensees for failure to report	0
Citations/fines issued to employers for failure to report	0



Question & Answer Period