



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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MEMORANDUM	
DATE	June 7, 2021
TO	Board Members
FROM	Elaine Yamaguchi Executive Officer
SUBJECT	BVNPT Fees for Education Programs

SUMMARY

The substantial cost associated with the review, approval, and monitoring of vocational nursing (VN) and psychiatric technician (PT) education programs (programs) is not recovered by the Board. The Board proposes to charge VN and PT programs fees for the ongoing regulatory functions provided to them by Board staff.

BACKGROUND:

Despite numerous efficiencies and reductions employed by the Board over the past three years, its projected expenses are greater than its projected revenue. Generally, Enforcement costs, including charges from the Department of Justice, which rose sharply in 2019, ongoing case work with the DCA Division of Investigations, and the costs incurred by the Office of Administrative Law represent the lion’s share of the Board’s budget and are out of the Board’s control.

The revenue shortfall is currently supplemented by the Board’s fund for economic uncertainties. Current projections indicate that this fund will suffer structural imbalance in the 2023-24 fiscal year.

In May 2020, the BVNPT conducted a survey of other Boards of Nursing via the National Council of State Boards of Nursing (NCSBN). This survey found:

- Over 68% of the participating survey State respondents indicated that programs fees are assessed for the regulatory oversight of prelicensure program approval and monitoring.
- Fee structuring on other states is diverse and includes consultative (per visit) fees, program application fees, annual compliance fees, and statutory language

such as “A nursing education program shall reimburse the Board for actual and necessary costs incurred for a site visit.” (Vermont)

- Some states have LVN education program fees that are consistent with RN education program fees.

In 2018, BVNPT sought legislation to increase fees for applicants, licensees, CE providers, and create a new fee structure for education programs. Most of this proposal was included in omnibus legislation, AB 1480, and on January 1, 2019, those specific fees were increased to meet the operational costs of the Board. However, the legislation did not include the new program fees, and BVNPT was advised to work with the Legislature to research and develop this proposal further and conduct more stakeholder outreach.

In 2019, the Board sought an author for legislation to authorize the new education program fees but decided to defer legislative action in favor of discussion and possible inclusion at the Board’s 2020 Sunset Review. Unfortunately, the COVID-19 pandemic of 2020 stalled the Sunset Hearing schedule. Staff has continued discussion of this issue, both internally and externally, and it was briefly discussed in the 2021 Sunset Review hearing and the following Background Paper response.

PRIOR BOARD ACTION

At the May 22, 2020 Meeting, the Board authorized staff to seek legislation to charge school programs fees for reviewing, processing and monitoring various functions of school programs in the amounts as follows:

- \$25,000 for the filing of an application for approval of a new school program, but not more than \$50,000
- \$25,000 for authorizing the continuing approval of an existing school program every four years, but not more than \$50,000
- \$5,000 for the processing and monitoring of a school program on provisional approval every six months, but not more than \$10,000 every six months
- School programs on provisional approval for three consecutive years will result in the Board’s removing the school program from the list of approved schools.

Assumptions:

- The fee structure was designed based on an internal study of the NECs’ workload.
- There was not an appreciable difference in the amount of work needed to approve new programs, between large programs and small, public and private.
- The Continued Approval was based upon the Program Review Survey (PRS), which examines the same factors in each program.
- The Provisional fee structure was designed to incentivize a program to correct its issues and be fully reapproved as soon as possible.
- The Board currently regulates approximately 150 programs, which range from 10 students to more than 500.
- 57 percent of the programs are private, for-profit entities. 29 percent are run through California Community College campuses. 14 percent are small

programs, run by County Offices of Education and/or Regional Occupational Programs.

NEW RECOMMENDATIONS

Since the May 2020 vote, BVNPT convened discussions regarding approving new programs, as well as the fee structure.

- The Board has been criticized for the inefficiency and lack of transparency in its program approval processes
- The Board approved a conceptual plan to address this issue in its response to the Sunset Review background paper, and staff has developed a plan and drafted legislative language to request the authority to launch a 3-year pilot program.
- While the information required by the PRS is the same for each review, the amount of data to produce and analyze varies based on the number of cohorts and number of students each year.
- It is not reasonable to assess the same level of fee for a program with 15 students as one with 200.
- One of the critical flaws in the existing system has been inconsistent communication from the proposing entity. The current version of the Board's 2021 Sunset legislation, AB 1536, contains language that would provide more structure, enabling the Board to require more timely responses, and establish consequences for the failure to comply.

Staff Recommendation 1: that the Board discuss and possibly approve amendments in the existing policy as follows:

- Approval of New Programs: \$25,000, with a statutory cap of \$50,000, payable in three stages:
 - Initial Application Fee: \$7,500
 - Active Assignment: \$7,500
 - Final Approval: \$10,000
 - New Program Fees would take effect January 1, 2022, and would be managed according to the proposed pilot program
 - The New Program Approval Fee funds the NEC's work with the program for its first four years, until they are considered for Continuing Approval.
 - This may need to be reassessed within three to five years, as the current high demand for new programs may decrease.
- Provisional Approval: \$5,000 for the processing and monitoring of a school program on provisional approval every six months, with a statutory cap of not more than \$15,000 every six months
 - School programs on provisional approval for three consecutive years will result in the Board's removing the school program from the list of approved schools.

- Provisional Approval Fees would be in effect for programs placed on Provisional on or after January 1, 2022.
- If a Program that is currently on Provisional Status is presented for continuation of that status after July 1, 2022, they will be assessed the fees.
- The New Approval and Provisional fees remain principally the same as the structure approved by the board in May 2020. Only the proposed Continuing Approval structure changes substantially.
- The statutory caps listed will provide future authorization to increase fee levels based on organizational need.

Staff Recommendation 2: That the Board discuss and possibly approve one of the following options regarding a fee for Continuing Approval.

- Continuing Approval: At least \$5,000, but no more than \$30,000 to continue approval of an existing school program every four years, with a statutory cap of \$60,000.
 - Model 1 for consideration:
 - Fees would be assessed based on a program's maximum number of authorized students.
 - Small Programs: \$5,000
 - Medium Programs: \$7,500
 - Large Programs: \$15,000
 - Extra Large Programs: \$25,000
 - This model is projected to yield approximately \$648,000 each year, or \$1.65 million over four years.
 - Model 2 for consideration
 - Fees would be based on a floor of \$7,500 and multiplied by a factor based on the number of cohorts.
 - Small Programs: \$7,500
 - Medium Programs: \$15,000
 - Large Programs: \$22,500
 - Extra Large Programs: \$30,000
 - This model is projected to yield approximately \$649,000 each year, or \$2.6 million over four years.
 - Model 3 for consideration
 - Fees would be based on a floor of \$5,000 for the very small programs, and then the same scenarios as Model 2.
 - Small Programs: \$5,000
 - Medium Programs: \$15,000
 - Large Programs: \$22,500
 - Extra Large Programs: \$30,000
 - This model is projected to yield approximately \$640,000 each year, or \$2.56 million over four years.

- Continuing Approval Fees would take effect July 1, 2022. All programs subject to review for continued approval prior to that date would not be assessed the fee until the next approval cycle.

Staff Recommendation 3: That the Board discuss and possibly approve the possible strategy of combining the Program Fee policy with the Program Approval Pilot Program.

POTENTIAL COST

Some initial set-up costs for internal and DCA cashiering, and BreEZe.

POTENTIAL REVENUE

A very rough estimate of the increase to BVNPT's annual revenue stream:

1. New Program Approvals: 20 new programs at \$25,000= \$500,000/year
2. Continuing Approval (Model 1): \$1.7 million over 4 years = \$415,000/year
3. Continuing Approval (Model 2): \$2.6 million over 4 years = \$649,000/year
4. Continuing Approval (Model 3): \$2.56 million over 4 years = \$640,000/year
5. Provisional Approval: Estimating 10 programs @ 10,000/year= \$100,000/year