

MEMORANDUM

DATE	April 6, 2022
TO	Board Members
FROM	Elaine Yamaguchi Executive Officer, Board of Vocational Nursing and Psychiatric Technicians
SUBJECT	Agenda Item 6: Discussion and Possible Action to Consider Adoption of Proposed Amendments to Amend Title 16, California Code of Regulations (CCR) Sections 2537, 2537.1, 2590, and 2590.1 – Fee Schedule

The purpose of this memo is to provide and update and recommendation to the Board regarding amendments to the proposed text of the Fee Schedule rulemaking package.

BACKGROUND

Board staff proposed to amend 16 CCR sections 2537 and 2537.1, 2590 and 2590.1 to increase license application, license renewal, and continuing education provider application and renewal fees to address a long-standing structural imbalance within the Board’s budget and to maintain a sufficient fund balance reserve.

On November 19, 2021, the Board made the following motion:

“Approve the proposed regulatory text and changes to Sections 2537, 2537.1, 2590, and 2590.1 as provided in the materials and direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any nonsubstantive changes to the package, and set the matter for a hearing. If no adverse comments are received during the 45-day comment period or at the hearing, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section(s) 2537, 2537.1, 2590, and 2590.1, as noticed.”

The motion carried and the Board voted to proceed with the Fee Schedule rulemaking.

The Board staff proceeded with the Board’s directive, and the text which the Board approved on November 19, 2021, was published in the California Regulatory Notice Register on January 28, 2022. The text of the proposed language, Notice of Proposed

Action (NOPA) and the Initial Statement of Reasons (ISOR) were posted on the Board’s website on January 28, 2022, and may be found at:

https://www.bvnpt.ca.gov/about_us/bvnpt_regulations.shtml

ANALYSIS

The Office of Administrative Law staff and Board staff have identified necessary changes to the proposed regulations text to ensure that the regulatory proposal fully and properly implements the proposed Fee Schedule rulemaking in accordance with the Administrative Procedure Act. Subsection (d) was inadvertently added as existing text when in fact no such text exists, and a couple of existing fee references were misnumbered or omitted. Staff and the Office of Administrative Law have identified these errors and the recommendation to address these errors is to strike (d) and renumber the existing subdivisions to accurately reflect the subdivisions contained within sections 2527 and 2590 and make corrections to the existing numbers in the subdivisions listed below. The proposed changes are identified as nonsubstantive and are described below. The full modified text of the proposed regulations is attached herewith. The proposed fee increases would not be affected or changed with these corrections. These corrections will merely update the proposal to ensure the existing text is correctly represented in the proposal.

Summary of Modifications to Regulatory Text:

Section 2537:

- Strike reference to subsection (d), added to the proposed text in error. ~~(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase the examination from a vendor approved by the board.~~
- Subsequent subsections have been re-lettered accordingly.

Section 2590:

- Subsection (a) has been corrected to show the existing fee is \$265 (the originally proposed text omitted the word “sixty”) as follows:

The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed the prescribed course of study in a California approved school for preparation of psychiatric technicians is ~~two~~three hundred ~~sixty five~~forty-five dollars (\$~~265~~345).

- Strike reference to subsection (d), which was added to the proposed text in error. ~~(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase the examination from a vendor approved by the board.~~
- Subsequent subsections have been re-lettered accordingly.

- Corrected re-lettered subsection (h) has been amended, adding the original “is” and striking the word “five,” as the original fee was \$20, not \$25, as follows:

The fee to be paid for an interim permit is twenty-five dollars (~~\$205~~50).

RECOMMENDATIONS

Adoption of these nonsubstantive amendments to the proposed regulations text is essential to the Board’s previous motion to proceed with Fee Schedule rulemaking. The language changes are needed to correct the proposed text, and staff recommends that the Board adopt the suggested amendments, so that the Fee Schedule rulemaking may proceed.

If the Board agrees with the staff recommendation, the suggested motion would be:

Approve the proposed modified text and direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations and adopt the proposed regulations at Title 16, California Code of Regulations Sections 2537, 2537.1, 2590, and 2590.1 as provided in the modified text notice.

If the Board wishes to make different or additional changes to the text other than what is proposed, the suggested motion would be:

Approve the proposed modified text with the changes discussed at this meeting, which include [insert description of proposed change by section number here] and direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations at Title 16, California Code of Regulations Sections 2537, 2537.1, 2590, and 2590.1 as provided in the modified text notice.

California Code of Regulations
Title 16 Professional and Vocational Regulations
Division 25. Board of Vocational Nursing and Psychiatric Technicians
Chapter 1. Vocational Nurses
Article 6. Revenue

Modified Text

Legend: New language is underlined.
Deleted language is shown in ~~strikeout~~.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double-strikeout~~ for deleted text.

Amend Sections 2537, 2537.1, 2590 and 2590.1 of Division 25 of Title 16 of the California Code of Regulations as follows:

§ 2537. Fees.

Pursuant to section 2895 of the Code, the following fees are established:

(a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed the prescribed course of study in a California approved vocational nursing program is ~~two~~three hundred ~~twenty~~ dollars (\$~~220~~300).

(b) The fee to be paid upon the filing of an application for licensure by examination by applicants who are qualified to take the examination by methods other than that specified in section 2537 (a) is ~~two~~three hundred ~~fifty~~thirty dollars (\$~~250~~330).

(c) The fee to be paid upon the filing of an application for licensure by endorsement is ~~two~~ three hundred ~~twenty~~ dollars (\$~~220~~300).

~~(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase the examination from a vendor approved by the board.~~

~~(d)~~ (de) The fee to be paid for any re-examination for licensure after the first attempt is ~~two~~ three hundred ~~twenty~~ dollars (\$~~220~~300).

~~(e)~~ (ef) The biennial renewal fee to be paid upon the filing of an application for renewal is ~~two~~ three hundred ~~twenty~~ dollars (\$~~220~~300). In addition, an assessment of five dollars (\$5) shall be collected and credited to the Vocational Nurse Education Fund, pursuant to Section 2895.5 of the Code. If a license is renewed more than 30 days after its expiration, the renewal fee for the current cycle shall be the renewal fee in effect on the date the renewal fee is paid.

~~(f)~~ (fg) Notwithstanding Section 163.5 of the Code, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time is one hundred ~~ten~~fifty dollars (\$~~140~~150).

(g~~h~~) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(h~~i~~) The fee to be paid for an interim permit is ~~twenty~~fifty dollars (\$~~20~~50).

(i~~j~~) The fee to be paid for a duplicate license or wall certificate is ~~twenty-five~~fifty dollars (\$~~25~~50).

(j~~k~~) The fee to be paid for processing verification of licensure papers to other states is one hundred fifty dollars (\$~~100~~150).

(k~~l~~) The fee to be paid for post-licensure certification in intravenous therapy, blood withdrawal or intravenous therapy with blood withdrawal is ~~twenty~~fifty dollars (\$~~20~~50).

(l~~m~~) The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is twenty-five dollars (\$25).

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2892.6, 2895 and 2892.7, Business and Professions Code.

§ 2537.1. Provider's Fees.

Pursuant to Sections 2892.6 and 2892.7 of the Code, the following fees are established:

(a) The fee to be paid upon filing of an application for any provider of a course in continuing education is ~~one~~two hundred fifty dollars (\$~~150~~250).

(b) The biennial renewal fee for any provider of a course in continuing education is ~~one~~two hundred fifty dollars (\$~~150~~250).

(c) The fee to be paid upon filing of an application from any provider of a course in Intravenous Therapy is ~~one~~two hundred fifty dollars (\$~~150~~250).

(d) The biennial renewal fee for any provider of a course in Intravenous Therapy is ~~one~~two hundred fifty dollars (\$~~150~~250).

(e) The fee to be paid upon filing of an application from any provider of a course in Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

(f) The biennial renewal fee for any provider of a course in Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

(g) The fee to be paid upon filing of an application from any provider of a course in Intravenous Therapy with Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

(h) The biennial renewal fee for any provider of a course in Intravenous Therapy with Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

Note: Authority Cited: Section 2854, Business and Professions Code. Reference: Section 2892.6 and 2892.7, Business and Professions Code.

California Code of Regulations
Title 16 Professional and Vocational Regulations
Division 25. Board of Vocational Nursing and Psychiatric Technicians
Chapter 2. Psychiatric Technicians
Article 6. Revenue

§ 2590. Fees.

Pursuant to Section 4548 of the Code, the following fees are established:

- (a) The fee to be paid upon the filing of an application for licensure by examination by applicants who have successfully completed the prescribed course of study in a California approved school for preparation of psychiatric technicians is ~~two~~three hundred ~~sixty five~~forty-five dollars (\$~~265~~345).
- (b) The fee to be paid upon the filing of an application for licensure by examination by applicants qualified to take the examination by methods other than that specified in Section 2590 (a) is ~~two~~three hundred ~~ninety seven~~seventy-five dollars (\$~~295~~375).
- (c) The fee to be paid upon the filing of an application for licensure by endorsement is ~~two~~three hundred ~~twenty~~three dollars (\$~~220~~300).
- ~~(d) The fee to be paid for taking each examination for licensure shall be the actual cost to purchase an examination from a vendor approved by the board.~~
- ~~(e)~~ The fee to be paid for any re-examination for licensure after the first attempt is ~~two~~three hundred ~~sixty~~forty-five dollars (\$~~265~~345).
- ~~(f)~~ The biennial renewal fee to be paid upon the filing of an application for renewal is ~~two~~three hundred ~~twenty~~three dollars (\$~~220~~300). If a license is renewed more than 30 days after its expiration, the renewal fee for the current cycle shall be the renewal fee in effect on the date the renewal fee is paid.
- ~~(g)~~ Notwithstanding Section 163.5 of the Code, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time is one hundred ~~ten~~fifty dollars (\$~~140~~150).
- ~~(h)~~ The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.
- ~~(i)~~ The fee to be paid for an interim permit is ~~twenty five~~twenty dollars (\$~~205~~50).
- ~~(j)~~ The fee to be paid for a duplicate license or wall certificate is ~~twenty~~fifty dollars (\$~~20~~50).
- ~~(k)~~ The fee to be paid for processing endorsement verification of licensure papers to other states is ~~twenty~~fifty dollars (\$~~20~~50).
- ~~(l)~~ The fee to be paid for post-licensure certification in blood withdrawal is ~~twenty~~fifty dollars (\$~~20~~50).
- ~~(m)~~ The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is twenty-five dollars (\$25).

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 152.6, 4544, 4545 and 4548, Business and Professions Code; and Section 6157, Government Code.

§ 2590.1. Provider Fees

Pursuant to Section 4518.1 of the Code, the following fees are established:

- (a) The fee to be paid upon filing of an application for any provider of a course in continuing education is ~~one~~two hundred fifty dollars (\$~~150~~250).

(b) The biennial renewal fee for any provider of a course in continuing education is ~~one~~two hundred fifty dollars (\$~~150~~250).

(c) The fee to be paid upon filing of an application from any provider of a course in Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

(d) The biennial renewal fee for any provider of a course in Blood Withdrawal is ~~one~~two hundred fifty dollars (\$~~150~~250).

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Section 4518 and 4518.1, Business and Professions Code.