

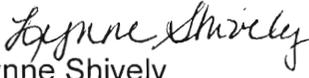
Agenda Item #12.C.



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945
Phone (916) 263-7800 Fax (916) 263-7855 Web www.bvnpt.ca.gov



DATE: May 5, 2011
TO: Board Members
FROM: 
Lynne Shively
Licensing Program Manager
SUBJECT: **Proposed Regulatory Action to Implement AB 2699**

STATEMENT OF ISSUES

Effective January 1, 2011, Assembly Bill (AB) 2699 (Bass, Chapter 270, Statutes of 2010), authorizes the establishment of regulations to allow a health care practitioner, licensed in one or more states, but not in California, to participate in free health care events in California for uninsured or under-insured individuals. **The authorization to practice is temporary and only valid for a period not to exceed ten days.**

The purpose of this regulatory action is to make specific provisions of AB 2699.

STATUTORY AUTHORITY

Prior to AB 2699, licensing laws precluded the participation of volunteers licensed outside of California.

Business & Professions (B&P) Code section 901 defines "sponsoring entities," "sponsored events," and "health care practitioners," and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

SUBJECT REVIEW

The proposed regulations would implement, interpret, and make specific the provisions of B&P Code section 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The Board's highest priority is the protection of the public and these proposed regulations are intended to implement B&P Code section 901 in a manner that will provide the greatest protection for the people of California.

The statute requires the Board to notify the sponsoring entity if the licensee's request for authorization is approved or denied within twenty (20) calendar days of receipt. However, to ensure timely approval, the licensee must submit his/her fingerprint records well in advance to allow sufficient time for the criminal history background check. Otherwise, it is unlikely that a clearance report will be received from the California Department of Justice within the twenty (20) calendar day period. Therefore, the Board anticipates that very few out-of-state licensees will qualify to serve at their first health care event. As the Board plans to retain the criminal history records for four (4) years, from the last request for authorization, the licensee would probably qualify on his/her next request for authorization.

RECOMMENDATIONS:

1. The Board approve the regulatory proposal to amend Division 25 of Title 16, California Code of Regulations, to add sections 2557, 2557.1, 2557.2 and 2557.3 (VN Regulations); and add sections 2595, 2595.1, 2595.2 and 2595.3 (PT Regulations).
2. Direct staff to prepare a rulemaking file for notice and comment.
3. Authorize the Executive Officer to make changes consistent with the intent of the above proposal.

Attachment A – B&P Code, Sections 900 and 901
Attachment B – Notice of Proposed Changes
Attachment C – Specific Language
Attachment D – Initial Statement of Reasons
Attachment E – Form 901-A (Sponsoring Entity)
Attachment F – Form 901-B (Licensee)

(5/5/2011)

BUSINESS AND PROFESSIONS CODE

900. Requirements for Exemptions; Immunity from Liability

(a) Nothing in this division applies to a health care practitioner licensed in another state or territory of the United States who offers or provides health care for which he or she is licensed, if the health care is provided only during a state of emergency as defined in subdivision (b) of Section 8558 of the Government Code, which emergency overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority.

(b) The director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed.

(c) Health care practitioners shall provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director.

(d) Health care practitioners deployed pursuant to this chapter shall provide the appropriate California licensing authority with verification of licensure upon request.

(e) Health care practitioners providing health care pursuant to this chapter shall have immunity from liability for services rendered as specified in Section 8659 of the Government Code.

(f) For the purposes of this section, "health care practitioner" means any person who engages in acts which are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(g) For purposes of this section, "director" means the Director of the Emergency Medical Services Authority who shall have the powers specified in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

901. (Repealed January 1, 2014) Exemption from Licensure Requirements for Services Provided Under Enumerated Circumstances; Prior Authorization; Steps Necessary for Sponsoring Entity; Report; List of Health Care Practitioners Providing Health Care Services Under this Section; Compliance.

(a) For purposes of this section, the following provisions apply:

(1) "Board" means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) "Health care practitioner" means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) "Sponsored event" means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) "Sponsoring entity" means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) "Uninsured or underinsured person" means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision (c).

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, zip code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(l) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

(5/5/2011)

Attachment B.

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Date: Wednesday, August 10, 2011

Time: 10:00 a.m.

Board for Professional Engineers & Land Surveyors
2535 Capitol Oaks Drive, 3rd Floor Conference Room
Sacramento, California 95833

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 P.M. on **August 8, 2011**, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code; and to implement, interpret or make specific sections 144, 901, 2841.1, 2859, 4501.1, 4502.3 of the B&P Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code section 2854 (VN Program) and section 4504 (PT Program) authorize the Board to add, amend, or repeal, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Practice Act and the Psychiatric Technicians Law.

- (1) Add Sections 2557, 2557.1, 2557.2, 2557.3 (VN Program); and**
- (2) Add Sections 2595, 2595.1, 2595.2, 2595.3 (PT Program)**

These proposed regulations would implement, interpret or make specific the provisions of B&P Code section 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The Board's highest priority is the protection of the public and these proposed regulations are intended to implement B&P Code section 901 in a manner that will provide the greatest protection for the people of California.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this proposed regulatory action will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations do not alter staffing or equipment needs in any small business.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. The Board is directed by statute to develop these regulations and there is, thus, no other method of developing the forms and procedure for registering sponsoring entities and granting authorization for requests by out-of-state practitioners to participate in sponsored events.

One possible alternative is to delay or refrain from promulgating any regulations – i.e., maintain the status quo. This is not reasonable because the statute specifies a registration and fee process to be developed by the Board to implement the statute. By not creating a procedure, the Board would obviate the purpose of the statute, which is intended to provide an opportunity for out-of-state licensed volunteers to participate in certain free health care events. Also, it is not reasonable to delay because the statute has a sunset date of January 1, 2014. Because the statute is only effective for three (3) years, it is incumbent on the Board to implement the required processes as soon as possible.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all of the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Lynne Shively, Licensing Program Manager
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-7854
Fax No: (916) 263-7855
E-Mail Address: Lynne.Shively@dca.ca.gov

The backup contact person is:

Name: Mark Ito, Licensing Analyst
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-7838
Fax No: (916) 263-7859
E-mail Address: Mark.Ito@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bvnpt.ca.gov

(5/5/2011)

Attachment C.

Board of Vocational Nursing and Psychiatric Technicians

SPECIFIC LANGUAGE

VOCATIONAL NURSING REGULATIONS

California Code of Regulations, Title 16, Division 25, Chapter 1:

Article 11. Sponsored Health Care Events – Requirements for Exemption

Add Section §2557. Definitions.

For the purposes of section 901 of the Code:

(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) “Out-of-state practitioner” means a person who is not licensed in California as a vocational nurse but who holds a current valid and active license or certificate in good standing in another state, district, or territory of the United States to practice.

NOTE: Authority cited: sections 901 and 2854, Business and Professions Code.
Reference: section 901, Business and Professions Code.

Add Section §2557.1. Sponsoring Entity Registration and Recordkeeping Requirements

(a) **Registration.** A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the Board not later than ninety (90) calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsored entity shall register with the Board by submitting to the Board a completed Form 901-A (5/5/11), which is hereby incorporated by reference.

(b) **Determination of Completeness of Form.** The Board may, by resolution, delegate to the Department of Consumer Affairs or its Executive Officer the authority to receive and process Form 901-A (5/5/11) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity within fifteen (15) calendar days of receipt of Form 901-A (5/5/11), in writing, that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least thirty (30) days prior to the commencement of the sponsored event.

(c) **Recordkeeping Requirements.** Regardless of where it is located, a sponsoring entity shall maintain, at a physical location in California, a copy of all records required by section 901 of the Code as well as a copy of the authorization for participation issued by the Board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five (5) years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Board.

(d) **Requirement for Prior Board Approval of Out-of-State Practitioner.** A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsored entity has received written approval from the Board.

(e) **Report.** Within fifteen (15) calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this Article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority: sections 901, 2841.1, and 2854, Business and Professions Code.
Reference: sections 901, Business and Professions Code.

Add Section §2557.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) **Request for Authorization to Participate.** An out-of-state practitioner ("applicant") may request authorization from the Board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Board to provide those services. An applicant shall request authorization by submitting to the Board a completed Form 901-B (5/5/11), which is hereby incorporated by reference, accompanied by a non-refundable, and non-transferrable processing fee of fifty dollars (\$50). The applicant shall also furnish either a full set of fingerprints or submit to a Live Scan process to establish the identity of the applicant and to permit the Board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to the first application for authorization that is submitted by the applicant if no more than

four years have passed since the last Request for Authorization, Form 901-B (5/5/11) was received by the Board.

(b) **Response to Request for Authorization to Participate.** Within twenty (20) calendar days of receiving a completed request for authorization, the Board shall notify the sponsoring entity or local government entity administering the sponsored event, whether that request is approved or denied.

(c) **Denial of Request for Authorization to Participate.**

(1) The Board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B (5/5/11) is incomplete and the applicant has not responded within seven (7) calendar days to the Board's request for additional information.

(B) The applicant has not met all of the following educational and experience requirements:

(i) Completion of a course of instruction in vocational or practical nursing in a school accredited by the Board or another United States province, provided that the course completed is substantially equivalent to that prescribed by section 2533 of this chapter.

(ii) Taken the National League for Nursing State Board Test Pool Examination for Practical Nurses or the National Council Licensing Examination for Practical Nurses, and passed said examination with a score equal to or above the minimum passing score required by the Board for said examination.

(C) The applicant has failed to comply with a requirement of this Article or has committed any act that would constitute grounds for denial of an application for licensure by the Board.

(D) The applicant does not possess a current valid license in good standing. The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency.

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license.

(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Board determines constitutes evidence of a pattern of negligence or incompetence.

(E) The Board has not received a criminal history report for the applicant from the California Department of Justice.

(2) The Board may deny a request for authorization to participate if any of the following occurs:

(A) The request is received less than twenty (20) calendar days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the Board to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Board.

(D) The applicant has participated in three (3) or more sponsored events during the twelve (12) month period immediately preceding the current application.

(d) **Appeal of Denial.** An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 2557.3.

NOTE: Authority: sections 144, 901, 2841.1, and 2854, Business and Professions Code. Reference: sections 901, 2859, Business and Professions Code.

Add Section §2557.3. Termination of Authorization and Appeal.

(a) **Grounds for Termination.** The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this Article, or any applicable practice requirement or regulation of the Board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Board.

(3) The Board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) **Notice of Termination.** The Board shall provide both the sponsoring entity or a local government entity administering the sponsored event, and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) **Consequences of Termination.** An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) **Appeal of Termination.** An out-of-state practitioner may appeal the Board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) **Informal Conference Option.** In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within thirty (30) days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten (10) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority: sections 901, 2841.1, and 2854, Business and Professions Code.
Reference: sections 901, Business and Professions Code.

Board of Vocational Nursing and Psychiatric Technicians

SPECIFIC LANGUAGE

PSYCHIATRIC TECHNICIAN REGULATIONS

California Code of Regulations, Title 16, Division 25, Chapter 2:

Article 10. Sponsored Health Care Events – Requirements for Exemption

Add Section §2595. Definitions.

For the purposes of section 901 of the Code:

(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) “Out-of-state practitioner” means a person who is not licensed in California to provide psychiatric technician services but who holds a current valid and active license or certificate in good standing in another state, district, or territory of the United States to provide psychiatric technician services.

NOTE: Authority cited: sections 901 and 4504, Business and Professions Code.
Reference: section 901, Business and Professions Code.

Add Section §2595.1. Sponsoring Entity Registration and Recordkeeping Requirements

(a) **Registration.** A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the Board not later than ninety (90) calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsored entity shall register with the Board by submitting to the Board a completed Form 901-A (5/5/11), which is hereby incorporated by reference.

(b) **Determination of Completeness of Form.** The Board may, by resolution, delegate to the Department of Consumer Affairs or its Executive Officer the authority to receive and process Form 901-A (5/5/11) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity within fifteen (15) calendar days of receipt of Form 901-A (5/5/11), in writing, that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least thirty (30) days prior to the commencement of the sponsored event.

(c) **Recordkeeping Requirements.** Regardless of where it is located, a sponsoring entity shall maintain, at a physical location in California, a copy of all records required by section 901 of the Code as well as a copy of the authorization for participation issued by the Board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five (5) years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Board.

(d) **Requirement for Prior Board Approval of Out-of-State Practitioner.** A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsored entity has received written approval from the Board.

(e) **Report.** Within fifteen (15) calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this Article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority: sections 901, 4501.1, and 4504, Business and Professions Code. Reference: sections 901, Business and Professions Code; and section 11105.

Add Section §2595.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) **Request for Authorization to Participate.** An out-of-state practitioner ("applicant") may request authorization from the Board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Board to provide those services. An applicant shall request authorization by submitting to the Board a completed Form 901-B (5/5/11), which is hereby incorporated by reference, accompanied by a non-refundable, and non-transferrable processing fee of fifty dollars (\$50). The applicant shall also furnish either a full set of fingerprints or submit to a Live Scan process to establish the identity of the applicant and to permit the Board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. This requirement shall apply only to

the first application for authorization that is submitted by the applicant if no more than four years have passed since the last Request for Authorization, Form 901-B (5/5/11) was received by the Board.

(b) **Response to Request for Authorization to Participate.** Within twenty (20) calendar days of receiving a completed request for authorization, the Board shall notify the sponsoring entity or local government entity administering the sponsored event, whether that request is approved or denied.

(c) **Denial of Request for Authorization to Participate.**

(1) The Board shall deny a request for authorization to participate if:

(A) The submitted Form 901-B (5/5/11) is incomplete and the applicant has not responded within seven (7) calendar days to the Board's request for additional information.

(B) The applicant has not met all of the following educational and experience requirements:

(i) Completion of a course of instruction and training in a school accredited by the Board or another United States province, provided that the course completed is substantially equivalent to that prescribed by Section 2587 of this chapter.

(ii) Taken and passed an examination that is substantially equivalent to the Board's Psychiatric Technician licensure examination as prescribed by section 2570 of this chapter.

(C) The applicant has failed to comply with a requirement of this Article or has committed any act that would constitute grounds for denial of an application for licensure by the Board.

(D) The applicant does not possess a current valid license in good standing. The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency.

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license.

(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Board determines constitutes evidence of a pattern of negligence or incompetence.

(E) The Board has not received a criminal history report for the applicant from the California Department of Justice.

the first application for authorization that is submitted by the applicant if no more than four years have passed since the last Request for Authorization, Form 901-B (5/5/11) was received by the Board.

(b) **Response to Request for Authorization to Participate.** Within twenty (20) calendar days of receiving a completed request for authorization, the Board shall notify the sponsoring entity or local government entity administering the sponsored event, whether that request is approved or denied.

(c) **Denial of Request for Authorization to Participate.**

(1) The Board shall deny a request for authorization to participate if:

(A) The submitted Form BVNPT 901-B (5/5/11) is incomplete and the applicant has not responded within seven (7) calendar days to the Board's request for additional information.

(B) The applicant has not met all of the following educational and experience requirements:

(i) Completion of a course of instruction and training in a school accredited by the Board or another United States province, provided that the course completed is substantially equivalent to that prescribed by Section 2587 of this chapter.

(ii) Taken and passed an examination that is substantially equivalent to the Board's Psychiatric Technician licensure examination as prescribed by section 2570 of this chapter.

(C) The applicant has failed to comply with a requirement of this Article or has committed any act that would constitute grounds for denial of an application for licensure by the Board.

(D) The applicant does not possess a current valid license in good standing. The term "good standing" means the applicant:

(i) Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency.

(ii) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of license.

(iii) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Board determines constitutes evidence of a pattern of negligence or incompetence.

(E) The Board has not received a criminal history report for the applicant from the California Department of Justice.

(2) The Board may deny a request for authorization to participate if any of following occurs:

(A) The request is received less than twenty (20) calendar days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the Board to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Board.

(D) The applicant has participated in three (3) or more sponsored events during the twelve (12) month period immediately preceding the current application.

(d) **Appeal of Denial.** An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 2595.3.

NOTE: Authority: sections 144, 901, 4501.1, and 4504, Business and Professions Code. Reference: sections 901 and 4502.3, Business and Professions Code.

Add Section §2595.3. Termination of Authorization and Appeal.

(a) **Grounds for Termination.** The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this Article, or any applicable practice requirement or regulation of the Board.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Board.

(3) The Board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) **Notice of Termination.** The Board shall provide both the sponsoring entity or the local government entity administering the sponsored event, and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) **Consequences of Termination.** An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) **Appeal of Termination.** An out-of-state practitioner may appeal the Board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) **Informal Conference Option.** In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within thirty (30) days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten (10) days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority: sections 901, 4501.1, and 4504, Business and Professions Code.
Reference: sections 901, Business and Professions Code.

(5/5/2011)

Board of Vocational Nursing and Psychiatric Technicians

INITIAL STATEMENT OF REASONS

HEARING DATE: August 10, 2011

SUBJECT MATTER OF PROPOSED REGULATIONS:

Sponsored Health Care Events – Requirements for Exemption

SECTIONS AFFECTED: Amend Title 16 California Code of Regulations (CCR) as follows:

Vocational Nursing (VN): Add Article 11, Sections 2557, 2557.1, 2557.2 and 2557.3

Psychiatric Technician (PT): Add Article 10, Sections 2595, 2595.1, 2595.2 and 2595.3

INTRODUCTION:

On September 23, 2010, Governor Arnold Schwarzenegger signed AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting Business and Professions (B&P) Code section 901, which became effective January 1, 2011. This statute provides a regulatory framework for certain health care events at which free care is offered to uninsured or under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. Prior to this enactment, licensing laws precluded the participation of volunteers licensed outside of California. B&P Code section 901 defines “sponsoring entities,” “sponsored events,” and “health care practitioners,” and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

These proposed regulations would implement, interpret, and make specific the provisions of B&P Code section 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state Licensed Vocational Nurses/Licensed Practical Nurses (LVN/LPN) or licensed Psychiatric Technicians (PTs) who desire to participate in sponsored events. The Board’s highest priority is the protection of the public and these proposed regulations are intended to implement B&P Code section 901 in a manner that will provide the greatest protection for the people of California.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

1. Definitions

VN: Add Section 2557

PT: Add Section 2595

This section is needed to clarify the language of the statute. Specifically, the definition of “community-based organization” is necessary because there is no statutory definition. The

definition of “out-of-state practitioner” is needed to clarify which practitioners the proposed regulations are intended to affect.

Factual Basis/Rationale:

“Community-based organization” is listed in the statute as one type of sponsoring entity. There is no definition of such an entity in state statute. The proposed definition of this term therefore is derived from a federal law (Title 20 USCA section 7801 related to education law) that does contain a definition of “community-based organization.” This definition provides much-needed clarity to the term.

The statute defines “health care practitioner” as any person who engages in acts subject to licensure under Division 2 of the B&P Code. The proposed regulations, along with the operative provisions of B&P Code section 901; however, concern specifically health care practitioners licensed to practice vocational or practical nursing or provide psychiatric technician services in other states and territories. Therefore, in order to provide clarity for purposes of the text of the regulations, the definition of “out-of-state practitioner” is proposed. The definition is based upon the criteria set forth in B&P Code section 901(b).

2. Sponsoring Entity Registration

VN: Add Section 2557.1(a)

PT: Add Section 2595.1(a)

This section establishes a timeframe for submission of a sponsoring entity’s registration form and prescribes a registration form to be used.

Factual Basis/Rationale:

Sponsoring entities are required under B&P Code section 901(d) to register with the Board if they will have out-of-state practitioners participating in their sponsored event. Therefore, the proposed regulation implements the statute by providing a form that a sponsoring entity can use to meet this requirement. The form includes space for all of the information required to be submitted under the statute. Also, the proposed regulation requires that sponsoring entities submit their registration forms no later than ninety (90) days prior to the sponsored events.

This is proposed in order to allow for sufficient time for review of the registration information and to have the registration in place prior to receipt of participation authorization requests from out-of-state practitioners.

3. Determination of Completeness of Form

VN: Add Section 2557.1(b)

PT: Add Section 2595.1(b)

This section provides a mechanism for the Board to delegate the receipt and review of the sponsoring entity registration form along with criteria for accepting or rejecting the registration.

Factual Basis/Rationale:

Because sponsoring entities may be required to register with multiple boards under B&P Code section 901 (d), the proposed regulation allows the Board to delegate the authority to receive

and process the registration form to the Department of Consumer Affairs (DCA) or its Executive Officer. Assuming that all applicable boards make this delegation, the sponsoring entity need only file one registration form per event and the DCA will notify the boards that the sponsoring entity submitted a complete form. This proposed regulation also specifies that the registration form needs to be complete in order to be accepted and that all deficiencies must be corrected at least thirty (30) days prior to the commencement of the sponsored event. This requirement is needed in order to ensure the Board that the entity has provided all required information including the correct contact information for the sponsoring entity when the event commences.

4. Recordkeeping Requirements

VN: Add Section 2557.1(c)

PT: Add Section 2595.1(c)

This section implements and makes specific the recordkeeping requirements of sponsoring entities set forth in B&P Code section 901(g).

Factual Basis/Rationale:

B&P Code section 901(g) specifies certain records that sponsoring entities must maintain and requires entities to furnish these records upon request to the Board. In order to implement these requirements, the proposed regulation specifies that these records must be kept both at the physical premises of the sponsoring event and at a location in California for the statutorily required five (5) year period. Having these records available at the event and, thereafter, at a location in California is necessary in order to provide the Board with access to the records. Further, the proposed regulation specifies that the records may be kept in either paper or electronic form. This provision clarifies that either form of records is acceptable to the Board.

5. Requirement of Prior Board Approval

VN: Add Section 2557.1(d)

PT: Add Section 2595.1(d)

This section clarifies that authorization must be provided before a sponsoring entity may allow an out-of-state practitioner to participate in a sponsored event.

Factual Basis/Rationale:

B&P Code section 901 provides for authorization requirements for out-of-state practitioners and for registration requirements of sponsoring entities. This proposed regulation connects the two (2) requirements by clarifying that a sponsoring entity may not permit an out-of-state practitioner to participate in its event unless and until it receives authorization from the Board.

6. Post-event Report

VN: Add Section 2557.1(e)

PT: Add Section 2595.1(e)

This section specifies the information to be provided in the report required under B&P Code section 901(f)

Factual Basis/Rationale:

B&P Code section 901(f) requires a report to be filed with the Board by a sponsoring entity within fifteen (15) days after a sponsored event and sets forth the minimum information to be included. The statute, however, does not provide any information as to the form of the report. The proposed regulation makes clear the Board will accept a report in whichever form the sponsoring entity chooses. Also, the proposed regulation includes a requirement of each participating out-of-state practitioner that the license number be included in the report. This information is necessary for the Board to identify the participants involved.

7. Request for Authorization to Participate

VN: Add Section 2557.2(a)

PT: Add Section 2595.2(a)

This section provides the mechanism by which an out-of-state practitioner may request authorization to participate in a sponsored event.

Factual Basis/Rationale:

Out-of-state practitioners who desire to participate in a sponsored event must request authorization from the Board in accordance with B&P Code section 901(b). The statute specifically requires the Board to prescribe a form and set a processing fee for this purpose. The proposed regulation implements B&P Code section 901(b) by incorporating proposed Form 901-B (5/5/2011) to be submitted by the out-of-state practitioner to the Board to request authorization to participate. The form provides space for the applicant to include all of the information required by the statute.

The fee of fifty dollars (\$50) for LVNs/LPNs and PTs has been determined by the Board as a reasonable amount to cover the costs to the Board for developing the authorization procedure and processing the authorization.

Additionally, the regulation requires the applicant to submit additional material not specifically listed in the statute. First, the applicant must submit personal identifying information including contact information; the individual's Social Security Number; employer's contact information; and, either a full set of fingerprints or submit to a Live Scan process. These requirements are reasonably necessary in order for the Board to verify the requirement of B&P Code section 901(b)(1)(B)(i) that the applicant has, "Not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under B&P Code section 480", which authorizes the Board to deny licensure based on an applicant's conviction of a crime.

The Board is also authorized to require applicants to furnish fingerprints for criminal background checks under B&P Code section 144. Once the fingerprints are furnished, the Board will continue to receive from the California Department of Justice (DOJ) follow up reports (i.e., Subsequent Arrest Reports) regarding the applicant until a formal request to cancel is initiated. The Board plans to formally cancel California DOJ follow up reports for these applicants once four (4) years has passed from the last Request for Authorization. Therefore, the Board has determined that the applicant would not need to submit additional fingerprint records as long as no more than four (4) years have passed since the last Request for Authorization was received by the Board. If more than four (4) years have passed, the applicant would be required to resubmit his/her fingerprint records.

8. Response to Request for Authorization to Participate

VN: Add Section 2557.2(b)

PT: Add Section 2595.2(b)

This section sets forth the standard timeframe in which the Board shall grant or deny the authorization request.

Factual Basis/Rationale:

B&P Code section 901(b)(1)(A) provides that the Board shall notify the sponsoring entity or local government entity within twenty (20) days of receiving a request for authorization to participate whether that request is approved or denied. The proposed regulation sets forth this statutory requirement and is necessary in order to restate the standard timeframe for response by the Board within the context of the regulations.

9. Denial of Request to Participate

VN: Add Section 2557.2(c)

PT: Add Section 2595.2(c)

This section sets forth the criteria under which the Board must or may deny a request for authorization to participate.

Factual Basis/Rationale:

The statute provides that the Board must authorize the participation of out-of-state practitioners in sponsored events, but it does not list specific criteria for denial of authorization other than if a practitioner “Fails to comply with the requirements of this section or for any act that would be grounds for denial of an application for licensure.” Therefore, it is necessary to provide at least some specific detail as to the criteria the Board will use beyond the general authorization to deny an application.

The Board has determined that the failure of an applicant to respond within seven (7) days to a request for additional information will result in an automatic denial of a request. Because the Board only has twenty (20) days in which to grant or deny a request, timing is critical and the Board’s opinion is that failure of an applicant to respond within seven (7) calendar days will sufficiently jeopardize the Board’s ability to effectively review a complete application within the allotted time.

B&P Code section 901(b) provides that applicants seeking authorization to participate must meet the following educational and experience requirements:

LVN/LPN:

- A. Completion of a course of instruction in vocational or practical nursing in a school accredited by the Board or another United States province, provided that the course completed is substantially equivalent to that prescribed by CCR section 2533.
- B. Took the National League for Nursing State Board Test Pool Examination for Practical Nurses or the National Council Licensing Examination for Practical Nurses, and passed

said examination with a score equal to or above the minimum passing score required by the Board for said examination.

PT:

- A. Completion of a course of instruction in a school accredited by the Board or another United States province, provided that the course completed is substantially equivalent to that prescribed by CCR section 2587.
- B. Taken and passed an examination that is substantially equivalent to the Board's Psychiatric Technician licensure examination as prescribed by section 2570 of this chapter.

The proposed regulation also sets forth discretionary reasons for denying a request. The first of these is that the application is not received within twenty (20) days prior to the event. B&P Code section 901(b)(1)(A) provides that the Board shall use reasonable efforts to notify the sponsoring entity within this time. The proposed regulation, however, provides needed clarity to the statute that, in the event that the statutorily required reasonable efforts are insufficient to review the application in advance of the event, the Board may then deny the request. It would be counter to the Board's consumer protection mandate to require it to grant authorization to an individual whose request is submitted in so short a time before the scheduled event that it cannot adequately be reviewed.

The other discretionary reasons for denial are based upon the past actions of the Board with respect to that particular individual. The Board is of the opinion that if an applicant has previously had a request denied or an authorization terminated, this alone may be cause for a subsequent denial. Because the time for review of the authorization is only twenty (20) days, the Board may not have time to revisit the case of an individual who has already been determined by the Board as unfit to participate. The Board feels that it is reasonable, however, to consider this a discretionary decision so that, on a case-by-case basis, the Board can re-evaluate a particular individual's circumstances as appropriate if sufficient time exists to do so without compromising public protection.

Finally, the Board feels that it is reasonable and necessary to include discretionary denial authority in the event that an applicant has participated in three (3) or more sponsored events within the 12 (twelve) month period immediately preceding the current application. The Board feels that, in an effort to maintain the integrity of the State's licensing laws and, thus, protect the public, it should have discretion to deny permission to applicants when the Board recognizes that a particular applicant practices in California without a license on multiple occasions within the span of one (1) year. Such a situation would frustrate the purpose of the "temporary" nature of the exemption from licensure permitted under B&P Code section 901.

10. Appeal of Denial

VN: Add Section 2557.2(d)

PT: Add Section 2595.2(d)

This section provides an appeal procedure for an applicant who has had a request for authorization to participate denied by the Board.

Factual Basis/Rationale:

B&P Code section 901 allows for the denial of a request for authorization to participate, but it does not provide any appeal procedure for the denied individual. In order to ensure some measure of due process, the Board feels that applicants should have access to the same appeal procedure available for an out-of-state practitioner who has had his or her authorization terminated. Therefore, the proposed regulation references the appeal procedure in sections 2557.3 (VN) and 2595.3 (PT) of these proposed regulations, discussed below. This will provide consistency in the two (2) appeal processes.

11. Grounds for Termination of Authorization

VN: Add Section 2557.3(a)

PT: Add Section 2595.3(a)

This section provides the grounds upon which the Board may terminate the authorization to participate previously granted to an out-of-state practitioner.

Factual Basis/Rationale:

The first two (2) grounds for termination listed in the proposed regulation are consistent with B&P Code section 901(j)(1). As an additional ground for termination, this proposed regulation adds the receipt of a credible complaint indicating that the practitioner is unfit to practice or is endangering the public. This provision is necessary in order for the Board to act consistently with its mandate that protection of the public is its highest priority. Because of the permissive and temporary nature of the licensure exemption granted under B&P Code section 901, and the limited time which the Board has to review and verify the qualifications of the out-of-state practitioner, the Board feels that it is essential that it may act immediately to terminate the authorization to participate granted to the non-California licensed individual when a credible complaint of endangerment is received.

12. Notice of Termination

VN: Add Section 2557.3(b)

PT: Add Section 2595.3(b)

This section specifies written notice of a termination may be given during a sponsored event.

Factual Basis/Rationale:

The statute provides that written notice of a termination shall be given to both the sponsoring entity or the local government entity administering the sponsored event, and the out-of-state practitioner. This proposed regulation is necessary to clarify that in the event a termination is issued during the course of a sponsored event, the Board may provide the written termination notice to any representative of the sponsoring entity on the premises of the event. The most expeditious way to notify the entity is at the event itself so that the practitioner will be instructed to cease practice immediately.

13. Consequences of Termination

VN: Add Section 2557.3(c)

PT: Add Section 2595.3(c)

This section sets forth the consequences of a termination of an authorization to participate and how the Board will report the fact of the termination.

Factual Basis/Rationale:

B&P Code section 901(j)(3) provides that out-of-state practitioners shall not provide services under this statute following a termination of authorization. The proposed regulation specifies that the practitioner shall “immediately” cease their participation in the event. The Board feels that this clarification is necessary in the event that a termination is issued during the course of an event. In case there is any confusion as to when the termination becomes effective, this proposed provision would be necessary to remove any doubt that the practitioner must immediately desist from participation as soon as the termination notice is received.

The proposed regulation also provides that the Board will consider a termination of authorization a disciplinary measure that is reportable to the national practitioner data banks and the individual’s out-of-state licensing authority(ies). The Board views these provisions as reasonably necessary and logical in order to protect the public. The grounds for termination are criteria that the Board itself would consider as disciplinary measures for its own licensees. Therefore, because the Board does not have licensing authority over the out-of-state practitioner, its only disciplinary remedy is to report the conduct to the individual’s home jurisdiction and applicable national practitioner data bases. If the conduct is such that it would lead to action against the practitioner’s out-of-state license, then the Board would have that information available to it in the event that the individual applied for either a subsequent authorization to participate in a future sponsored event or a license to practice in California.

14. Appeal of Termination

VN: Add Section 2557.3(d)

PT: Add Section 2595.3(d)

This section provides the procedure for appealing denials of authorization and terminations of authorizations to participate.

Factual Basis/Rationale:

The statute allows for an out-of-state practitioner who has had his or her authorization to participate terminated by the Board to file a written appeal to the Board within thirty (30) days of receipt of the termination notice. The proposed regulation specifies that this request for appeal shall be considered a request for an informal hearing under the Administrative Procedure Act (APA). This is potentially a less costly system than the formal hearing procedure and is warranted for removal of this type of authorization.

15. Informal Conference Option

VN: Add Section 2557.3(e)

PT: Add Section 2595.3(e)

This section provides an alternative to a hearing under the APA for appeals submitted by out-of-state practitioners.

Factual Basis/Rationale:

B&P Code section 901(j) allows for the filing of an appeal by an out-of-state practitioner. In addition to the APA procedure set forth in proposed section 2557.3 (e) for LVNs and 2595 (e) for PTs above, this proposed regulation also offers the appealing out-of-state practitioner the option of an informal conference with the Board's Executive Officer to try and resolve the appeal. This proposed regulation is consistent with the Board's practice for its own licensees who have been issued a citation as set forth in CCR section 2523 (e) for LVNs and 2579.2 (e) for PTs and provides an inexpensive option to ensure the efficient resolution of appeals when possible. The informal conference option proposed does not affect the appellant's right to a hearing under the APA.

UNDERLYING DATA:

- Assembly Bill 2699

BUSINESS IMPACT

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The regulation only impacts nonprofit organizations sponsoring free health care events and practitioners from other states volunteering in California. There is some impact to the out-of-state volunteers in that they will be required to submit the processing fee to receive authorization to participate. This fee will have to be factored into the cost of that individual's volunteerism. The fee may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records of their volunteers, reporting to boards after events and filing a registration as appropriate. Those costs are imposed by the statute and not by these regulations.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

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

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. The Board is directed by statute to develop these regulations and there is, thus, no other method of developing the forms and

procedure for registering sponsoring entities and granting authorization for requests by out-of-state practitioners to participate in sponsored events.

One possible alternative is to delay or refrain from promulgating any regulations—i.e., maintain the status quo. This is not reasonable because the statute contemplates a registration and fee process to be developed by the Board to implement the statute. By not creating a procedure, the Board would frustrate the purpose of the statute, which is intended to provide an opportunity for out-of-state licensed volunteers to participate in certain free health care events. Also, it is not reasonable to delay because the statute has a sunset date of January 1, 2014. Because the statute is only effective for three (3) years, it is incumbent on the Board to implement the required processes as soon as possible.

(5/5/2011)



**APPLICATION FOR REGISTRATION
 SPONSORING ENTITY
 FOR FREE HEALTH CARE EVENT**

In accordance with California Business and Professions (B&P) Code section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least ninety (90) calendar days prior to the sponsored event.** *Note that the information required by B&P Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

Only one registration form per event should be completed and submitted to the Department of Consumer Affairs (DCA) (address and contact information on last page). The DCA will forward a copy of the completed registration form to each of the licensing authorities indicated on this form.

PART A – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

 Address Line 1

 Phone Number of Principal Office

 Address Line 2

 Alternate Phone Number

 City, State, Zip

 Fax Number

 County

 Website

Organization Contact Information in California (*if different*):

 Address Line 1

 Phone Number

 Address Line 2

 Alternate Phone Number

 City, State, Zip

 Fax Number

 County

3. Type of Organization:

a. Organization's Tax Identification Number*: _____

(*B&P Code Section 30 and Public Law 94-455 [(42 USCA(c)(2)(c)] authorizes collection of your FEIN. Applications for Registration will not be processed until a valid U.S. identification number is received.)

b. Is the organization operating pursuant to Section 501(c)(3) of the Internal Revenue Code?
 _____ Yes _____ No

c. If not, is the organization a community-based organization? _____ Yes _____ No
 (Note: A "community based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.)

d. If a community-based organization, please describe the mission, goals and activities of the organization (*attach separate sheet(s) if necessary*): _____

PART B – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who are the officers or officials of the organization responsible for operation of the sponsoring entity.

Individual 1:

 Name

 Address Line 1

 Address Line 2

 City, State, Zip

 County

 Title

 Phone Number

 Alternate Phone Number

 Fax Number

 E-mail Address

Individual 2:

 Name

 Address Line 1

 Address Line 2

 City, State, Zip

 County

 Title

 Phone Number

 Alternate Phone Number

 Fax Number

 E-mail Address

Individual 3:

 Name

 Address Line 1

 Address Line 2

 City, State, Zip

 County

 Title

 Phone Number

 Alternate Phone Number

 Fax Number

 E-mail Address

(Attach additional sheets if needed to list additional principal organizational individuals)

PART C – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event not to exceed ten (10) calendar days: _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

5. Attach a list of all out-of-state health care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that the list is attached.*

6. Please check each licensing authority that will have jurisdiction over an out-of-state licensed health practitioner who intends to participate in the event:

- | | |
|-------------------------------------|--|
| ___ Acupuncture Board | ___ Physical Therapy Board |
| ___ Board of Behavioral Sciences | ___ Board of Podiatric Medicine |
| ___ Board of Chiropractic Examiners | ___ Board of Psychology |
| ___ Dental Board | ___ Board of Registered Nursing |
| ___ Dental Hygiene Committee | ___ Respiratory Care Board |
| ___ Medical Board | ___ Speech-Language Pathology,
Audiology & Hearing Aid Dispensers Board |
| ___ Naturopathic Medicine Committee | ___ Veterinary Medical Board |
| ___ Board of Occupational Therapy | ___ Board of Vocational Nursing &
Psychiatric Technicians |
| ___ Board of Optometry | ___ Other: _____ |
| ___ Osteopathic Medical Board | |
| ___ Board of Pharmacy | |
| ___ Physician Assistant Committee | |

7. Please remember that:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application (Form 901-B) **to the applicable licensing board/committee.**
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

PART D – CERTIFICATION STATEMENTS

I understand the recordkeeping requirements imposed by California B&P Code section 901 and the applicable sections of Title 16, California Code of Regulations for the agencies listed above require our organization to maintain records, in either electronic or paper form, at the sponsored event and for five (5) years after the sponsored event occurred.

I understand that our organization must file a report with each applicable board/committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current and that I am authorized to sign this form on behalf of the organization.

Name Printed

Title

Signature

Date

PART E – MAILING INSTRUCTIONS

This form and any attachments shall be submitted to:

Department of Consumer Affairs
Attn: Division of Legislative & Policy Review
1625 North Market Boulevard, Suite S-204
Sacramento, CA 95834

Questions regarding the completion of this form should be directed to:

Department of Consumer Affairs
Attn: Division of Legislative & Policy Review
(916) 574-7800
lprdivision@dca.ca.gov

or

Board of Vocational Nursing & Psychiatric Technicians
Attn: Licensing Division Analyst
(916) 263-7800
bnvnt@dca.ca.gov

(5/5/2011)

4. Applicant's Employer: _____

Employer's Contact Information:

Name

Title

Address Line 1

Daytime Phone Number

Address Line 2

Fax Number

City, State, Zip

E-mail Address (if available)

5. Specify the name and location of the LVN/LPN or PT school from which you graduated.

Name

Location

6. Did you pass a LVN/LPN or PT licensure examination? Yes No

Name of Examination

Date of Examination

PART B – LICENSURE INFORMATION

1. Do you hold a current valid and active license, certification, or registration issued by a state, district, or territory of the United States authorizing the unrestricted practice of LVN/LPN services or providing PT services in your jurisdiction(s)? Yes No

- A. If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.
- B. If yes, list every license, certificate, and registration authorizing you to engage in the practice of LVN/LPN or providing PT services in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form. **Please also attach a copy of each of your current licenses, certificates, and registrations.**

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Have you ever had your LVN/LPN or PT license or certification to practice revoked or suspended? Yes No

3. Have you ever been subject to any disciplinary action or proceeding by a licensing body? ___ Yes ___ No

4. If you answered "Yes" to question 2 and/or 3, please explain (*attach additional page(s) if necessary*):

PART C – SPONSORED EVENT

1. Name and address of local government entity or non-profit or community-based organization (the "sponsoring entity") hosting the free healthcare event: _____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

5. Please specify the healthcare services you intend to provide: _____

6. Name and phone number of contact person with sponsoring entity or local government entity: _____

PART D – ACKNOWLEDGMENT & CERTIFICATION

I, the undersigned, acknowledge and declare under penalty of perjury under the laws of the State of California that:

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the Board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice LVN/LPN or provide PT services.
- I will comply with all applicable practice requirements required of LVNs/LPNs or licensed PTs and all regulations of the Board.
- In accordance with B&P Code section 901(i), I will only practice within the scope of my licensure and/or certification and within the scope of practice for California LVNs/LPNs or PTs.

- I will provide the services authorized by this request and B&P Code section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and B&P Code section 901 only in association with the sponsoring entity or local government entity listed herein and only on the dates and at the locations listed herein **for a period not to exceed ten (10) calendar days**.
- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.
- I understand that practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.
- I understand that the Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- All information provided by me in this application is true and complete to the best of my knowledge. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the Board deems necessary.

Signature

Date

Name Printed

License No.

GENERAL APPLICATION INSTRUCTIONS & MAILING REQUIREMENTS
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This "Request for Authorization" must be completed in full and must be accompanied by all of the following:

- **Fee** – Attach a check for fifty dollars (\$50) made payable to the "BVNPT." This is a non-refundable fee that covers the processing of your request.
- **Photo Identification** – A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- **Copy of License(s)** – A copy of the applicant's current LVN/LPN or PT license from all applicable states/jurisdictions of the U.S.
- **Verification of Licensure** – The Board requires a Verification of Licensure from the State Licensing Authority through which the applicant was originally licensed. If the applicant's original license has expired, the applicant must also submit a Verification of Licensure from the state in which he/she holds a current license.

- **Fingerprints** – The Board requires a California DOJ and Federal Bureau of Investigation (FBI) criminal history background check on all applicants. Therefore, each applicant must follow the enclosed instructions on the fingerprint process. The applicant will be required to either: (1) Submit two (2) fingerprint cards and a fee of fifty-one dollars (\$51) made payable to the “BVNPT”; or (2) Complete and submit a “Request for Live Scan Service” at an approved Live Scan site. The applicant will be required to pay the applicable Live Scan service fee and a rolling fee directly to the Live Scan Service Provider. The request for authorization cannot be granted until the Board receives a clearance report from the DOJ. (Note: Upon receipt of both a DOJ and FBI clearance report, the applicant need not submit his/her fingerprint records again for four (4) years from the last requests for authorization.)
- **Mailing Address** – Please mail the request, fees, and all applicable documents to:

BVNPT
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833

***Social Security Number** – B&P Code Section 30 and Public Law 94-455 [(42 USCA(c)(2)(c)] authorizes collection of your social security number. Applications for licensure will not be processed until a valid U.S. Social Security Number is received.

Privacy Act – The Department of Consumer Affairs collects the personal information requested on this form as authorized by B&P Code section 30 (General Provisions); B&P Code Division 2, Chapter 6.5, Articles 1 & 2 (Vocational Nursing Practice Act) and Chapter 10, Articles 1 & 2 (Psychiatric Technician Law); and California Code of Regulations Title 16, Division 25, Chapter 1 (Vocational Nurses) and Chapter 2 (Psychiatric Technicians).