Agenda Item 9.B

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

Board of Vocational Nursing and Psychiatric Technicians
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DATE: August 28, 2013

TO: Board Members

FROM: Cheryl C. Anderson, M.S., R. N.
Supervising Nursing Education Consultant

SUBJECT: Proposed Regulatory Action to Implement Permissive Site Visits for Vocational Nursing and Psychiatric Technician Programs

STATEMENT OF ISSUES

The Board is mandated to ensure the protection of consumers. Pursuant to Business and Professions Code Sections 2883 and 4532 (Senate Bill 539, Chapter 338, Statutes of 2011), the Board is authorized to inspect all schools for preparation of vocational nurses and psychiatric technicians to determine the program's compliance with prescribed standards for approval.

Revision of existing regulations is required to reflect this statutory change.

BACKGROUND AND SUBJECT REVIEW

On September 26, 2011, SB 539 was approved, thereby extending the operation of the Board of Vocational Nursing and Psychiatric Technicians through 2016. Additionally, the bill specified the Board's authority to inspect or review all vocational nursing and psychiatric technician programs to determine if approval should be granted or continued.

Current regulations specify the Board shall conduct a survey visit prior to graduation of the initial vocational nursing or psychiatric technician class. Further, six (6) months prior to the date of accreditation expiration, programs may apply for continued accreditation based upon submission of documentation satisfactory to the Board. Existing language specifies that the Board may conduct a subsequent survey visit to determine a program's continued accreditation. As such, a revision of existing regulations is required to implement the statutory change.

On May 10, 2012, the Board approved the proposal to amend **California Code of Regulations, Title 16, Division 25, Chapter 1, Article 5**, Sections 2526 (c) and 2526 (f), and **California Code of Regulations, Title 16, Division 25, Chapter 2, Article 5,** Sections 2581(c) and 2581(f), and directed staff to submit the Rulemaking File to the Department of Consumer Affairs (DCA) and to the Office of Administrative Law (OAL). Additionally, the Board authorized the Executive Officer to make non – substantive changes as are required by the Director of DCA and OAL.

On June 3, 2013, the Rulemaking File was submitted to the Board's legal counsel for review. On June 11, 2013, the Rulemaking File was submitted to OAL.

On June 21, 2013, the proposed regulations were published in the California Notice Register. The Notice, Proposed Language and Initial Statement of Reasons were uploaded to the Board's website and electronic correspondence with a link to the website disseminated to interested parties expressly requesting placement on the Board's email list. Additionally, the Board mailed a copy of the notice to other interested parties.

On July 24, 2013, the Board received electronic correspondence from Katherine Demos, Regulations Coordinator, DCA's Division of Legislative & Policy Review. Additional revisions were recommended to achieve clarity in Section 2526(f) of the Vocational Nursing Rules and Regulations and Section 2581(f) of the Psychiatric Technician Rules and Regulations. Ms. Demos opined that the proposed changes were non – substantive, but recommended consultation with legal counsel.

On August 5, 2013, a public hearing was held in the Board's Administrative Conference Room. The Board received no oral or written comments from the public prior to or during the hearing.

On August 13, 2013, the Board's legal counsel advised that the changes as recommended by DCA's Division of Legislative & Policy Review constituted substantive changes. As such, the Board was advised that an additional 15 – day notice and republication of the proposed changes was recommended.

On August 19, 2013, the Notice, Proposed Language, as amended, and Initial Statement of Reasons were uploaded to the Board's website.

Recommendations:

1. Approve regulatory proposal as modified, to amend **California Code of Regulations, Title 16, Division 25, Chapter 1 (Vocational Nursing), Article 5,** Sections 2526(c) and 2526(f).

2. Approve regulatory proposal as modified, to amend **California Code of Regulations, Title 16, Division 25, Chapter 2 (Psychiatric Technician), Article 5**, Sections 2581(c) and 2581 (f).

3. Direct staff to submit the Final Rulemaking File to the Department of Consumer Affairs and to the Office of Administrative Law for final approval.

4. Authorize the Executive Officer to make non – substantive changes as are required by the Director of the Department of Consumer Affairs and the Office of Administrative Law.

Attachment A: Proposed Regulatory Language to Implement Permissive Site Visits for Vocational Nursing Programs.

Attachment B: Proposed Regulatory Language to Implement Permissive Site Visits for Psychiatric Technician Programs.

CALIFORNIA CODE OF REGULATIONS
Title 16. Professional and Vocational Regulations

Division 25. Board of Vocational Nursing And Psychiatric Technicians

Vocational Nursing Regulations

Amend California Code of Regulations Title 16, Division 25, Chapter 1, Article 5, Sections 2526 (c), and (2526(f) to read as follows.

Article 5. Schools of Vocational Nursing

2526. Procedure for Approval.

(a) The institution shall apply to the Board for approval. Written documentation shall be prepared by the director and shall include:
- (1) Philosophy of the program.
- (2) Conceptual framework.
- (3) Terminal objectives to indicate expected student outcomes upon successful completion of the program.
- (4) Curriculum objectives.
- (5) Course outlines.
- (6) Course objectives.
- (7) Instructional Plan.
- (8) Evaluation methodology for curriculum.
- (9) Faculty who meet the qualifications set forth in Section 2529.
- (10) Clinical Facilities.
- (11) Evaluation methodology for clinical facilities.
- (12) Admission criteria.
- (13) Screening and selection criteria.
- (14) Number of students.
  - (A) A school may admit alternate students in each new class to replace students who may drop out.
  - (B) The number of alternate students admitted may not exceed 10% of the school's Board-approved number of students per class.
  - (C) Prior to admission, alternate students must be informed in writing of their alternate status and that they may be dropped from the program.
  - (D) Alternate students may participate in classes until the commencement of scheduled clinical experience at approved clinical facilities.
  - (E) Upon commencement of clinical experience at approved clinical facilities, the actual number of students in the class may not exceed the number of students approved by the Board for that particular class.

(15) Evaluation methodology for student progress.
(16) List of resources for provision of counseling and tutoring services for students.
(17) Student policies:
  (A) Credit granting.
  (B) Attendance.
  (C) Grievance.
(18) Organizational chart.
(19) Proposed starting date.
(20) Evidence of program resources to include, but not be limited to:
  (A) Description of the geographic area and community to be served by the proposed program;
  (B) Clinical affiliations available for student clinical experience; and
  (C) Existing nursing programs with which clinical affiliations are shared.

(b) An institution may commence a new vocational nursing program upon Board approval.

(c) A Board representative shall ~~make a survey visit~~ complete an inspection or review prior to graduation of the initial class. A program shall not commence another class without prior Board approval.

(d) Approval will be granted by the Board when a vocational nursing program demonstrates that it meets all requirements as set forth in this chapter and in chapter 6.5. Division 2 of the Business and Professions Code.

(e) The approval period shall be for a term of four years unless the Board grants an extension.
  (1) An extension may be granted when the program demonstrates to the satisfaction of the Board that it is in full compliance with all requirements as set forth in this chapter and in chapter 6.5, Division 2 of the Business and Professions Code.
  (2) The extension may be granted for a period not to exceed four years.

(f) Six months prior to the date of approval expiration, a program may apply for continued approval based upon submission of documentation satisfactory to the Board pursuant to Section 2526 (a). A subsequent ~~survey visit~~ inspection or review may be conducted by a Board representative.

(g) A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for denial or revocation of approval or provisional approval.

Note: Authority cited: Section 2854, Business and Professions Code. Reference: Sections 2866, 2880, 2881 and 2883, Business and Professions Code.

CALIFORNIA CODE OF REGULATIONS
Title 16. Professional and Vocational Regulations

Division 25. Board of Vocational Nursing And Psychiatric Technicians

Psychiatric Technician Regulations

Amend California Code of Regulations Title 16, Division 25, Chapter 2, Article 5, Sections 2581(c), and 2581(f) to read as follows.

Article 5. Schools for Preparation of Psychiatric Technicians

2581. Procedure for Approval.

(a) The institution shall apply to the Board for approval. Written documentation shall be prepared by the director and shall include:

(1) Philosophy of the program
(2) Conceptual framework
(3) Terminal objectives to indicate expected student outcomes upon successful completion of the program.
(4) Curriculum objectives
(5) Course outlines
(6) Course objectives
(7) Instructional Plan
(8) Evaluation methodology for curriculum
(9) Faculty who meet the qualifications set forth in Section 2584.
(10) Clinical facilities
(11) Evaluation methodology for clinical facilities
(12) Admission criteria
(13) Screening and selection criteria
(14) Number of students
  (A) A school may admit alternate students in each new class to replace students who may drop out.
  (B) The number of alternate students admitted may not exceed 10% of the school's Board-approved number of students per class.
  (C) Prior to admission, alternate students must be informed in writing of their alternate status and that they may be dropped from the program.
  (D) Alternate students may participate in classes until the commencement of scheduled clinical experience at approved clinical facilities.
  (E) Upon commencement of clinical experience at approved clinical facilities, the actual number of students in the class may not exceed the number of students approved by the Board for that particular class.
(15) Evaluation methodology for student progress
(16) Resources for provision of counseling and tutoring services for students.

(17) Student policies:
  (A) Credit granting.
  (B) Attendance.
  (C) Grievance.
(18) Organizational chart.
(19) Proposed starting date.
(20) Evidence of program resources to include, but not be limited to:
  (A) Description of the geographic area and community to be served by the proposed program;
  (B) Clinical affiliations available for student clinical experience; and
  (C) Existing nursing and psychiatric technician programs with which clinical affiliations are shared.

(b) An institution may commence a new psychiatric technician program upon Board approval.

(c) A Board representative shall ~~make a survey visit~~ complete an inspection or review prior to graduation of the initial class. A program shall not commence another class without prior Board approval.

(d) Approval will be granted by the Board when a psychiatric technician program demonstrates that it meets all requirements as set forth in this chapter and in Chapter 10, Division 2, of the Business and Professions Code.

(e) The approval period shall be for a term of four years unless the Board grants an extension.
  (1) An extension may be granted when the program demonstrates to the satisfaction of the Board that it is in full compliance with all requirements as set forth in this chapter and in chapter 10, Division 2, of the Business and Professions Code.
  (2) The extension may be granted for a period not to exceed four years.

(f) Six months prior to the date of approval expiration, a program may apply for continued approval based upon submission of documentation satisfactory to the Board pursuant to Section 2581 (a). A subsequent ~~survey visit~~ inspection or review may be conducted by a Board representative.

(g) A material misrepresentation of fact by a psychiatric technician program in any information submitted to the Board is cause for denial or revocation of approval or provisional approval.

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4511, 4515, 4530, 4531 and 4532, Business and Professions Code.