



Board of Vocational Nursing and Psychiatric Technicians
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DATE: May 1, 2014

TO: Board Members

FROM: 
Alice Delvey-Williams
Enforcement Program Manager

SUBJECT: Proposed Regulatory Action to Amend California Code of Regulations Section(s) 2517.5 (VN) and 2575.5 (PT), Fingerprint and Disclosure Requirements for Renewal of License

STATEMENT OF ISSUE

The Board is mandated to protect consumers from licensees who practice in an unsafe, incompetent, or impaired manner. In accordance with Business and Professions Code, section 2841.1 and 4501.1, protection of the public shall be the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions.

As a condition of licensure renewal, a vocational nurse or psychiatric technician must disclose if he or she had been convicted of any violation of the law, with the exception of traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances, since they last applied for renewal.

The Board must amend these regulations to address the issue of renewal applicants being required to disclose traffic infractions that do not constitute grounds for Board action. The proposed amendments will increase the reportable traffic infraction fine amount from \$300 to \$1000. By doing such, the Board's highest priority, to protect the public, will be better served and Board staff will be able to concentrate its efforts on other critical enforcement-related activities.

BACKGROUND AND SUBJECT REVIEW

The intent of this component of the renewal process is to identify licensees who have been convicted of a violation of the law, since their last renewal, which would be grounds for Board action. However, due to the low fine reporting threshold licensees must report a multitude of traffic infractions that are not grounds for discipline. The current self-disclosure requirement for license renewal, as it relates to reporting traffic infractions over \$300, creates an undue workload for staff and reporting requirement for licensees. By increasing the fine reporting threshold to \$1000 licensees will only have to report traffic related convictions if the fine exceeds \$999. A fine under \$1000 for a traffic infraction will be exempt from reporting as long as it did not involve alcohol, dangerous drugs, or controlled substances.

Initially staff was prepared to recommend increasing the reportable fine amount from \$300 to \$500. However public comments at the February 26, 2014, Board meeting along with a review of Uniform Bail and Penalty schedules for Los Angeles and Sacramento counties support that increasing the amount to \$1,000, would ensure that traffic related infractions that are not grounds for disciplinary action would not have to be reported to the Board.

RECOMMENDATIONS

1. The Board approve the regulatory proposal to amend Division 25 of Title 16, California Code of Regulations Sections 2517.5 (VN) and 2575.5 (PT).
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 – Proposed Regulatory Language

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Vocational Nursing Regulations

§ 2517.5. Fingerprint and Disclosure Requirements for Renewal of License.

(a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under ~~\$300~~ \$1,000 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

Board of Vocational Nursing and Psychiatric Technicians

PROPOSED LANGUAGE

Psychiatric Technicians Regulations

§ 2575.5. Fingerprint and Disclosure Requirements for Renewal of License.

(a) As a condition of renewal for a license that expires on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, an applicant for renewal shall disclose whether, since the licensee last applied for renewal, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under ~~\$300~~ \$1,000 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.