



## MEMORANDUM

<b>DATE</b>	April 4, 2022
<b>TO</b>	Board Members
<b>FROM</b>	Elaine Yamaguchi Executive Officer Board of Vocational Nursing and Psychiatric Technicians
<b>SUBJECT</b>	<b>Agenda Item 5: Discussion and Possible Action to Consider Comments Received During the 45-Day Public Comment Period and Proposed Responses Thereto for the Board’s Rulemaking to Amend Title 16, California Code of Regulations (CCR) Sections 2537, 2537.1, 2590, and 2590.1 – Fee Schedule</b>

The purpose of this memo is to provide background and recommendations to the Board regarding the comments received on the proposed rulemaking package and determine what responses to provide.

### **BACKGROUND**

The Board proposes to amend Section 2537 and 2537.1 of Article 6 of Chapter 1 of Division 25 of Title 16, and Section 2590 and 2590.1 of Chapter 2 of Article 6 of Division 25 of Title 16 of the CCR to increase license application, license renewal, and CE or education course provider application and renewal fees to address a structural imbalance within the Board’s budget and to maintain a sufficient fund balance reserve until the Board can increase statutory fee levels to completely eliminate the structural imbalance.

The proposed regulatory language, which the Board approved on November 19, 2021, was prepared, posted and opened for public comments. The text of the proposed language, Notice of Proposed Action (Notice) and the Initial Statement of Reasons (ISOR) have been posted on the Board’s website, and may be found here: [BVNPT Regulations - Board of Vocational Nursing & Psychiatric Technicians](#).

Per the Administrative Procedure Act, Government Code section 11346.4, the Board sent a public Notice of the proposed fee increases to interested parties and posted the notice to its website on January 28, 2022. The 45-day public comment period was from January 28, 2022 to March 15, 2022 with a public hearing set for March 16, 2022 during the Board’s Executive Committee meeting. The Board received a total of twenty-one (21) written public comments via email regarding the proposed action, seventeen (17)

during the posted comment period and four (4) during the hearing. The Board received thirteen (13) verbal comments at the Board's March 16, 2022 Executive Committee meeting.

The summary of the comments in the letters and at the hearing, and the staff's recommended responses thereto, are Attachment 1. The minutes from the March 16, 2022 Executive Committee Meeting are Attachment 2. Copies of all written comments received are included as Attachment 3.

## **ANALYSIS**

The Board's overarching responsibility is to protect consumers. It cannot do so if it is financially insolvent. The Board and Executive Officer must ensure that the Board remains solvent and does not attempt to incur expenditures in excess of the Board's legally authorized budgetary appropriation. (See Attachment 4, from the Board's Regulatory Counsel Kristy Schieldge, originally presented and discussed at the November 2021 Board Meeting.)

The Board, its Executive Officer and staff genuinely appreciated the substantial and substantive comments received from individuals and groups. There were several key threads expressed.

1. Hardship on licensees
2. Inappropriateness of licensee fees underwriting education costs
3. Question of why the increase should go to the current statutory limit
4. Question of why the Board can't wait until more data on the new school fees is analyzed.

The Board's Initial Statement of Reasons, and its supporting materials, including an analysis of the costs associated with licensing functions, and the Board's Fund Condition all illustrate the need for the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner. These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection.

## **STAFF RECOMMENDATIONS**

Staff strongly recommends that the Board reject comments as specified (with the exception of the comment in support of the proposal) and provide the responses to the comments as indicated in Attachment 1.

Recommended Motion: If the Board agrees with the staff recommendation above, the suggested motion is to direct the Executive Officer to proceed as recommended to reject adverse comments as specified and provide the responses to the comments as indicated in Attachment 1.

### Alternate Motion:

The Board may make an alternate motion, if the Board disagrees with the staff recommendation and wishes to either:

- (1) Suggest edits to the recommended responses,
- (2) Accept any specific comments and make corresponding changes in the proposal, or,
- (3) Make any other changes to the Board responses.

The suggested motion in this instance is to direct the Executive Officer to accept the following comments and make the following edits to the text: [identify specific comments to accept or reject and text to change here], but otherwise proceed as recommended to reject adverse comments as specified and otherwise provide the responses to the comments as indicated in the meeting materials in Attachment 1.

## **ATTACHMENTS**

1. Summary of Public Comments Received and Staff Recommendations for Responses to Comments on Proposed Rulemaking to Amend sections 2537, 2537.1, 2590, and 2590.1 of Article 6 of Division 25 of Title 16, California Code of Regulations – Fee Schedule
2. Minutes from Executive Committee Meeting and Hearing on March 16, 2022
3. Copies of written comments received during public comment period and hearing
4. Memo from Regulatory Counsel re: Board Fiduciary Responsibility

**Summary of Public Comments Received and Staff Recommendations for Responses to Comments on Proposed Rulemaking to Amend sections 2537, 2537.1, 2590, and 2590.1 of Article 6 of Division 25 of Title 16, California Code of Regulations – Fee Schedule**

**Background:** Per Government Code Section 11346.4 of the Administrative Procedure Act, the Board sent a public Notice of proposed action regarding this rulemaking. The 45-day public comment period was from January 28, 2022 to March 15, 2022.

On March 16, 2022, the Board’s Executive Committee held a Public Hearing regarding the proposal and accepted further verbal and written comments therein.

The Board received twenty-one (21) written public comments via email regarding the proposed action. The Board received thirteen (13) comments at the Board’s March 16, 2022 Executive Committee meeting (minutes are included in the meeting materials for this item). The summary of the comment(s) in the letter(s) and at hearing, and the staff’s recommended responses thereto, are as follows:

**Comment 1:** Susan Bubb, Licensed Vocational Nurse

**Comment Summary:**

This comment states that she absolutely opposes this due to both COVID-19 related income reductions and ongoing both physical and mental stress; this is not the time to increase fees.

**Staff’s Recommended Response:**

The Board has considered the comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to help eliminate a structural budget imbalance between the Board’s revenue and expenditures so that it may continue its regulatory functions.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board’s ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board’s ability to achieve its mission and statutory mandate of consumer protection.

**Comment 2:** Stephanie Judd, Licensed Vocational Nurse

**Comment Summary:**

This comment states that she is opposed to this increase. The Board’s licensees are working under hazardous conditions with reduced staffing. The commentor cites burnout, and increased education costs, and believes the government should help

frontline workers instead of taking more. The commenter states that she is already paying over \$200 to renew what she earned and now I have to pay more if this passes.

**Staff's Recommended Response:**

The Board has considered the comment and makes no changes to the language of the regulation based thereon. The justification for the renewal fee increases has been fully discussed in the Initial Statement of Reasons (ISOR), as has the economic impact on affected parties. The renewal fee increase proposed in this rulemaking represents an increase of \$40 a year, or \$80 per renewal period. Further, the Board's analysis indicates that costs associated with the Board's program are actually higher than what is being contemplated in this rulemaking. The costs associated with renewal are estimated at \$364 and the current proposal increases the fee to \$300 (which is the highest permitted by the current statutory cap). Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**Comment 3:** Janet Laur, Licensed Vocational Nurse

**Comment Summary:**

This comment requests reconsideration of the "big" fee increase because the renewal increase is in addition to other increases in living expenses and this is more than most LVNs can handle.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period.

**Comment 4:** Barbara Manson, Licensed Vocational Nurse

**Comment Summary:**

This comment questions why license renewals are more costly when renewal letters and cards are no longer mailed to licensees.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. Renewal postcards are still being mailed to licensees approximately 60 days prior to license renewal; however, it should be noted that the Board receives a substantial number of renewal postcards returned as undeliverable because of invalid addresses. The Board reminds all licensees and license applicants to notify the Board of any change in mailing or electronic address. The proposed biennial renewal fee is commensurate with the actual cost to process the renewal as described in the Board's Initial Statement of Reasons.

**Comment 5:** Juliana Corcoran, Licensed Vocational Nurse

**Comment Summary:**

This commentor understands the need of the Board to increase licensing fees to keep the Board's budget in balance, but requests that the increases be gradual in up to three (3) smaller increases. For example, for the renewal fee increase gradually as follows: first to \$250, then to \$275, then to \$300.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase renewal fees to eliminate a structural budget imbalance between the Board's revenue and expenditures to maintain a prudent reserve. The proposed renewal fee increase represents an increase of 36% over the existing renewal fees, raising the fees \$40 a year, \$80 per renewal period, and more closely reflects the actual cost associated with processing of renewals. The Board has conducted fee analyses, which are included as underlying data for this rulemaking and such analyses show that these fee increases are necessary to help maintain operations in the short term and cannot be delayed.

**Comment 6:** Kristopher DeTar, Licensed Vocational Nurse (Retired)

**Comment Summary:**

This comment states that it is criminal that the Board cannot work within its current \$40+ million budget from collected fees from members to issue license renewals.

**Staff's Recommended Response:**

The Board rejects this comment and makes no changes to the language of the regulation based thereon. The Board's Fund Condition is part of the underlying data for this rulemaking and available upon request and online in the Board meeting materials on its website at

[https://www.bvnpt.ca.gov/about\\_us/meetings/materials/20220218\\_5a.pdf](https://www.bvnpt.ca.gov/about_us/meetings/materials/20220218_5a.pdf)

The Board's current revenue from the license renewal fees is approximately 12 million dollars, not 40 million dollars, and the total budget for the Board is 18 million dollars from all revenue sources. The proposed increase would add 6.5 million dollars to the Board's annual budget with \$3,969,680 estimated annual revenue from vocational nursing license renewals. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to charge fees that more closely align with the actual costs associated with processing of applications and renewals. See the response to comment number 17 below for further explanation.

**Comment 7:** Ashley Carbonell, Licensed Vocational Nurse

**Comment Summary:**

This comment urges the Board to reconsider the proposed fee increase; it states that the increase will impair LVNs' ability to afford licensure; especially during already difficult economic times. The commenter urges the Board to cease the amendment and stop the increase of fees during such an emotionally stressful and fragile economic time.

The commenter states that increasing the fees "will enable the Board to continue regulating the practice of LVNs, PTs, and prelicensure and CE providers; the fees will support the Board's daily functions," but states her belief that this basically means that the Board which consists of 11 members "will have an increase of at least \$9,208,605.00 to split and place into eachothers pockets."

**Staff's Recommended Response:**

The Board rejects this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to charge fees that more closely align with the actual costs associated with processing of applications and renewals.

Fee revenues are not distributed among the Board members. California Business and Professions Code section 103 details how Board members are compensated:

"Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money. Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, or committees on any day when the officer or employee also received compensation for the officer or employee's regular public employment."

**Comment 8:** Robert Mallory, Licensed Vocational Nurse

**Comment Summary:**

This comment is in favor of the proposed fee increase; because LVNs continue to need representation and enforcement of nursing education, licensure, and other activities required to keep the nursing profession safe.

**Staff's Recommended Response:**

The Board has considered this comment, accepts the support, and intends to proceed with the increases as set forth in the proposed language.

**Comment 9:** Nancy Sanchez (Miller), Licensed Vocational Nurse

**Comment Summary:**

This comment states that the renewal process needs to be streamlined and improved to justify a fee increase. She states that if the Board plans to make it more expensive to renew, "then you better make it better" because "right now renewing in Calif is terrible."

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more closely align with the actual costs associated with processing of applications and renewals.

**Comment 10:** Rachel Dutton, Licensed Vocational Nurse

**Comment Summary:**

This comment vehemently rejects the proposal that has been submitted to increase the fees associated with Licensed Vocational Nurses, citing the biennial increase of \$80 as being too high. The comment states that other boards have increased fees by much less to accomplish the same goal. The commenter questions what, exactly, that this increase in fee would pay for since the Board doesn't even provide "hard cards" for licensees. She further states the vague explanation in the fee schedule as equally unacceptable, as there are no changes available to what businesses and other entities might be affected. She expresses her dissatisfaction with this proposed increase in fees if positive effects cannot even be listed. With the inadequate explanation, the commenter believes she is left with no choice but "to assume that the BVNPT is merely increasing their fees simply because they can."

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to recover fees that more accurately reflect the actual costs associated with processing of applications and renewals. The Board's explanation is provided in a 16-page document that has been mailed and posted on the Internet entitled "Initial Statement of Reasons," which includes the



estimated business impacts, fiscal impacts to the Board, anticipated benefits, economic impact assessments and the rationales for each proposed change listed in the regulatory proposal. In short, the current level of fees is not adequate to keep the Board's fund solvent and fees need to be adjusted to reflect the actual cost to the Board to process and service each license type. Analyses conducted by DCA's Budget Office have concluded that although legislatively authorized fee increases were implemented on January 1, 2019, the reserve funds are not adequate to sustain Board budget expenditures beyond the 2022-23 Budget Year. The proposed revisions to Title 16 CCR sections 2537, 2537.1, 2590, and 2590.1 will allow the Board to continue operations and its important consumer-focused functions.

**Comment 11:** Jeanne Mcilravy, Licensed Vocational Nurse

**Comment Summary:**

This comment opposes the proposed fee increase for LVNs and requests justification for the increase, since hard cards are no longer provided. She further states that this is "not the best time to propose this increase with inflation skyrocketing-please reconsider." The commentor recommends a discount for licensees over the age of 65 that are still working.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to recover the actual cost associated with processing of applications and renewals. If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection. Finally, the Board has no authority to set or reduce license fees based upon personal characteristics, including age.

**Comment 12:** Movses Chmbdyan, Licensed Vocational Nurse

**Comment Summary:**

This comment acknowledges that the Public Hearing on March 16<sup>th</sup> is regarding a fee increase; the commentor wishes for discussion on rulemaking and laws for the support and protection of Vocational Nurses in the workplace so that they may provide better healthcare.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to recover fees that more accurately reflect the actual cost associated with processing of applications and renewals. The comment does not appear to be directed at the text of the proposal and raises no new issues relative to the proposed rulemaking.

**Comment 13:** Jamie Melton, Licensed Vocational Nurse

**Comment Summary:**

This commentor asks when the new fee schedule would go into effect.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The comment is not directed at any text proposed to be adopted or amended by the Board. The Board did not set an effective date, so the effective dates would be set by law according to Section 11343.4 of the Government Code. If approved by the Office of Administrative Law, the proposed regulations would become effective on one of four quarterly dates based on when the final regulations are filed with the Secretary of State: January 1, if filed between September 1 and November 30; April 1, if filed between December 1 and February 29; July 1, if filed between March 1 and May 31; and October 1, if filed between June 1 and August 31.

**Comment 14:** Victor Roman, Psychiatric Technician

**Comment Summary:**

This comment disagrees with the proposed fee increase citing the Board's first priority to address its customer service shortcomings including lack of timely processing, and poor telephone customer service. The commenter states that he does not think the LVN/PT Board "should give themselves another raise - when they first need to address age old issues of inability to connect with a live person and inability to process license renewal applications in a more expedient and timely manner." The commenter relates several complaints and instances of alleged poor customer service and states that he has been "experiencing these same issues since 1981 and still - these issues are not properly addressed (if at all) For the money we pay for a license renewal - I would like to see some of it invested in improved delivery of customer service from the LVN/LPT Board."

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more accurately reflect the actual cost associated with processing of applications and renewals. If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including

slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection. Finally, the Board has no authority to set or reduce license fees based upon personal characteristics, including age.

**Comment 15:** Coby Pizzotti, Consultant/Partner, Lyles, Wiesmann, Pizzotti & Associates, California Association of Psychiatric Technicians (CAPT) (January 14, 2022 letter and February 14, 2022 email)

**Comment Summary:**

The commentor submits opposition to the proposed amendment to the regulations on behalf of 6,000 state-licensed and certified members working in state hospitals, developmental centers, and prisons and as the professional organization for 12,000 psychiatric technicians in the state of California.

The commentor believes it is poor judgment for the Board to move forward with the licensee fee increases while there is an LVN and PT vacancy on the board and cites a lack of licensee representation on the board.

The commentor states that CAPT finds the Board's fund insolvency rationale to be faulty as the board now has a substantially greater revenue source, due to the implementation of AB 1536, which, in part, creates fees for existing and new LVN and PT programs.

The commentor states that it is CAPT's understanding that the fees on new and existing schools, as outlined in AB 1536, do not cover the cost of the resources necessary to provide regulation and accreditation services to LVN and PT programs. The commentor finds that the Board seeks to correct its structural imbalance by increasing fees on those who can least afford it – the licensees.

The commentor cites the history of AB 179 which merged the LVN and PT funds, eliminating the unnecessary need for separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board created one licensee renewal fee at \$220 resulting in a \$70 increase for LVN's and an \$80 decrease for PTs. The commentor states that the renewal increases to \$300 for both LVN and PTs licensees is unfair, when prelicensure education programs have paid nothing for the services they have used at the board for over 30 years.

The commentor requests that the board halt the increase of licensee fees until it can realize the impact of the school and program fees on the fund. The commentor, on behalf of CAPT, urges the board and the hearing authority to deny the request to amend fee increases on licensees at this time.

### **Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to more accurately reflect the actual cost associated with processing of applications and renewals. The Board acknowledges the potential positive impact of the fees associated with the implementation of AB 1536; however, the anticipated revenue from the prelicensure program fees is neither immediate, nor sufficient to eliminate the budget's structural imbalance, and should reflect the workload of prelicensure education regulation, and not subsidize the actual cost associated with the processing of applications and renewals.

As explained in the Initial Statement of Reasons, the Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the increases to the application, licensing, certification, verification, delinquency, permit, and renewal fees (see Underlying Data). The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. The reserve funds are not adequate to sustain Board budget expenditures beyond the 2022-23 Budget Year.

This proposed regulatory change will ensure the Board will be able to meet future expenses while incrementally replenishing the reserve fund. The proposed amendments to the Board's fee schedule will help to reduce the Board's structural budget imbalance in the near future, recover costs, and allow the Board additional time to continue operations and analyze future operational needs. In the interim, the Board is proposing the following increases to continue operations for the near future (see Underlying Data: November 4, 2021 Analysis of Fund Condition 2022-23 Baseline with regulatory fee increase).

**Comment 16:** Soo Manai, Licensed Vocational Nurse

### **Comment Summary:**

The commentor opposes the fee schedule proposal, citing the cost of CEUs to maintain the license, and the cost of living in California. The commentor questions the exact nature of the structural imbalance, and what expenditures may be negatively impacting the Board's operating budget. The commentor challenges the Board to eliminate job tasks or restructure its functions. The commentor states that they don't see the justification of increasing these fees. The commentor requests a detailed list of where our funds go and what they are spent on, what are the reserve funds used for, whether it is needed, an explanation of how the Board is regulating individuals and businesses, and other questions related to the structural imbalance alleged by the Board in its Initial Statement of Reasons. The commentor asks that the Board consider a renewal fee for LVNs of \$270 rather than \$300.

### **Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

As explained in the Initial Statement of Reasons, the Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the increases to the application, licensing, certification, verification, delinquency, permit, and renewal fees (see Underlying Data). The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. The reserve funds are not adequate to sustain Board budget expenditures beyond the 2022-23 Budget Year.

This proposed regulatory change will ensure the Board will be able to meet future expenses while incrementally replenishing the reserve fund. The proposed amendments to the Board's fee schedule will help to reduce the Board's structural budget imbalance in the near future, recover costs, and allow the Board additional time to continue operations and analyze future operational needs. In the interim, the Board is proposing the following increases to continue operations for the near future (see Underlying Data: November 4, 2021 Analysis of Fund Condition 2022-23 Baseline with regulatory fee increase). As set forth in the Initial Statement of Reasons, the actual cost to the Board to process a renewal for LVNs is \$ 364. Consequently, the renewal fee of \$270 that the commentor proposes does not adequately capture the cost of its processing.

**Comment 17:** California Legislature, Jordan Cunningham, Assemblymember 35<sup>th</sup> District, Kevin McCarty, Assemblymember 7<sup>th</sup> District, Freddie Rodriguez, Assemblymember 52<sup>nd</sup> District, and Phil Ting, Assemblymember 19<sup>th</sup> District

### **Comment Summary:**

The commentors request a temporary halt to seeking amendment to CCR, Title 16, Division 25, Chapters 1 and 2, which would increase licensing fees on licensees and applicants for examination.

The commentors cite the history of AB 179 which merged the LVN and PT funds, eliminating the unnecessary need for separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board created one licensee renewal fee at \$220 resulting in a \$70 increase for LVN's and an \$80 decrease for PTs. The commentors cite a \$150 increase for LVNs in just four years.

The commentors cite their support of AB 1536 (Committee on Business and Professions, Chapter 632, Statutes of 2021), and state that the Board no longer needs to rely on licensing fees for its operating expenses. The commentors find that increasing licensing fees on an essential pandemic workforce communicates a shortage of gratitude and appreciation for the sacrifices the licensees have made.

The commentors state that the Board should seek additional legislation giving the Board the authority to cover the actual cost of the resources those entities utilize.

The commentors cite a lack of licensee representation on the board in the Board's existing LVN and PT vacancies and state that the process should not have been commenced without this representation.

The commentors ask the Board to evaluate the flow of revenue generated from AB 1536 and allow for LVN and PT vacancies on the board to be filled before any action is taken to seek an increase in licensure fees.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to more accurately reflect the actual costs associated with the processing of licensee and continuing education provider applications and renewals. As explained in the Initial Statement of Reasons, based upon fee analyses of the actual costs of providing the actual services covered by this proposal, and the analysis of the Board's fund condition (see analyses and fund condition statements in Underlying Data), the Board needs to increase the subject fees to the maximums permitted by law to continue operations for the near future. The fee increases will bolster the Board's revenues and funding available to continue uninterrupted the Board's daily functions, enforcement, and licensing operations.

The Board acknowledges the potential positive impact of the fees associated with the implementation of AB 1536; however, the anticipated revenue from the prelicensure program fees is neither immediate, nor sufficient to eliminate the Board's structural imbalance according to the fiscal analyses conducted by the Department. The prelicensure provider fees are intended to compensate the Board's actual costs of processing those applications and regulating the prelicensure education providers only and are unrelated to the actual costs of processing the licenses and permits covered by this proposal.

The Board reproduces its findings here regarding the actual costs of processing individual LVN and PT licenses and applications, as follows:

<b>Regulatory Section (16 CCR)</b>	<b>Actual Costs</b>
2537(a): Application for Licensure by Examination - CA Vocational Nursing Program Graduate	\$ 362
2537(b): Application for Licensure by Examination - Equivalent Education/Experience	\$ 872

<b>Regulatory Section (16 CCR)</b>	<b>Actual Costs</b>
2537(c): Application for Licensure by Endorsement	\$ 465
2537(d): Application for Re-Examination	\$ 325
2537(e): Biennial Renewal Fee (2 years)	\$ 364
2537(f): Renewal Delinquent Fee	\$ 196
2537(g): Initial License Fee	\$ 305
2537(h): Interim Permit	\$ 87
2537(j): Duplicate license or wall certificate	\$ 72
2537(j): Verification of a Calif Licensee's license to another State Board	\$ 372
2537(k): Intravenous (IV), Blood Withdrawal (BW), or (IV with BW) Certification	\$ 181

<b>Regulatory Section (16 CCR)</b>	<b>Actual Costs</b>
§ 2590 (a): Application for Licensure by Examination - CA Psychiatric Tech Program Graduate	\$362
§ 2590 (b): Application for Licensure by Examination - Equivalent Education/Experience	\$ 773
§ 2590 (c): Application for Licensure by Endorsement	\$ 407
§ 2590 (d): Application for Re-Examination	\$ 347

<b>Regulatory Section (16 CCR)</b>	<b>Actual Costs</b>
§ 2590 (e): Biennial Renewal Fee (2 years)	\$ 305
§ 2590 (f): Renewal Delinquent Fee	\$ 167
§ 2590 (g): Initial License Fee B	\$ 305
§ 2590 (h): Interim Permit	\$ 87
§ 2590 (i): Duplicate license or wall certificate	\$ 72
§ 2590 (j): Verification of a California License to another State Board	\$ 372
§ 2590 (k): Blood Withdrawal (BW) Certification	\$ 181

**Comment 18:** Spenser Swingle, Psychiatric Technician

**Comment Summary:**

This comment was received in writing during the Public Hearing on March 16, 2022. The comment opposes the license fee increase for Psychiatric Technicians.

**Staff’s Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget’s structural imbalance in the short term, and to more accurately reflect the actual costs associated with processing of applications and renewals.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board’s ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board’s ability to achieve its mission and statutory mandate of consumer protection.

**Comment 19:** Angelica Ortiz, Psychiatric Technician

**Comment Summary:**

This comment was received in writing during the Public Hearing on March 16, 2022. The comment opposes the license renewal fee increase for Psychiatric Technicians.



**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more accurately reflect the actual costs associated with processing of applications and renewals. The cost of processing a PT renewal is \$305 and the Board is proposing to raise the fee the statutory cap of \$300.

**Comment 20:** Rose Floyd-Perez, Vocational Nurse

**Comment Summary:**

This comment was received in writing during the Public Hearing on March 16, 2022. The commentor states that registered nurses are compensated more than vocational nurses but pay less dues to maintain their licenses. The commentor states that the vocational nurse salary does not match the cost of living, and that raising fees will cause her more problems with the pandemic, gas price going up drastically, and cost of living also rising.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more accurately reflect the actual costs associated with processing of applications and renewals.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection.

**Comment 21:** Liz Karanja, Psychiatric Technician

**Comment Summary:**

This comment was received in writing during the Public Hearing on March 16, 2022. The comment opposes the BVNPT fees increase.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more accurately reflect the actual costs associated with processing of applications and renewals.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection.

**Note: Susan Bird**

Ms. Bird asked by email to make a proposed comment at the hearing, but no comments were actually received by the Board from her at the hearing or during the written public comment period.

**Verbal Comments Received at the March 16, 2022 Public Regulatory Hearing**

**Comment 22:** Coby Pizzotti, Consultant/Partner, Lyles, Wiesmann, Pizzotti & Associates, California Association of Psychiatric Technicians (CAPT)

**Comment Summary:**

The commentor expressed opposition to the proposed amendment to the regulations on behalf of 6,000 state-licensed and certified members working in state hospitals, developmental centers, and prisons and as the professional organization for 12,000 psychiatric technicians in the state of California.

The commentor stated that it is poor judgment for the Board to move forward with the licensee fee increases while there is an LVN and PT vacancy on the board and cited a lack of licensee representation on the board.

The commentor stated that CAPT finds the Board's fund insolvency rationale to be faulty as the board now has a substantially greater revenue source, due to the implementation of AB 1536, which, in part, creates fees for existing and new LVN and PT programs.

The commentor stated that it is CAPT's understanding that the fees on new and existing schools, as outlined in AB 1536, do not cover the cost of the resources necessary to provide regulation and accreditation services to LVN and PT programs. The commentor stated that the Board seeks to correct its structural imbalance by increasing fees on those who can least afford it – the licensees.

The commentor cited the history of AB 179 which merged the LVN and PT funds, eliminating the unnecessary need for separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board created one licensee renewal fee at \$220 resulting in a \$70 increase for LVN's and an \$80 decrease for PTs. The commentor stated that the renewal increases to

\$300 for both LVN and PTs licensees is unfair, when prelicensure education programs have paid nothing for the services they have used at the Board for over 30 years. The commentor requested that the Board halt the increase of licensee fees until it can realize the impact of the school and program fees on the fund. The commentor, on behalf of CAPT, urged the board and the hearing authority to deny the request to amend fee increases on licensees at this time.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon for the reasons set forth in response to this commenter's written comments at Number 15 and to similar comments set forth in Number 17 above.

**Comment 23:** Melissa Vartanian, SEIU 1000

**Comment Summary:**

Agreement with previous comment.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon for the reasons set forth in response to written comments at Numbers 15 and 17 above.

**Comment 24:** Roberta Lawson

**Comment Summary:**

The commentor asked why fees are being increased.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The Board's explanation is provided in a 16-page document that has been mailed and posted on the Internet entitled "Initial Statement of Reasons," which includes the estimated business impacts, fiscal impacts to the Board, anticipated benefits, economic impact assessments and the rationales for each proposed change listed in the regulatory proposal. In short, the current level of fees is not adequate to keep the Board's fund solvent and fees need to be adjusted to reflect the actual cost to the Board to process and service each license type. Analyses conducted by DCA's Budget Office have concluded that although legislatively authorized fee increases were implemented on January 1, 2019, the reserve funds are not adequate to sustain Board budget expenditures beyond the 2022-23 Budget Year. The proposed revisions to Title 16 CCR sections 2537, 2537.1, 2590, and 2590.1 will allow the Board to continue operations and its important consumer-focused functions.

**Comment 25:** Shirley Jones

**Comment Summary:**

The commentor stated that the previous generation of licensees are still maintaining their licenses for sentimental reasons. She added that the Board should consider that many of these older and retired licensees may not be able to pay the increased renewal fees and will abandon the license entirely, instead of maintaining it.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to eliminate the budget's structural imbalance, and to more accurately reflect the actual costs associated with processing of applications and renewals.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner

**Comment 26:** Movses Chmbdyan, Licensed Vocational Nurse

**Comment Summary:**

The commentor stated there is a need to know the purpose of the fee increase and an explanation of its purpose (i.e. inflation). The commentor expressed desire for discussion on the support and protection of Vocational Nurses in the workplace so that they may provide better healthcare.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon. The Board's explanation is provided in a 16-page document that has been mailed and posted on the Internet entitled "Initial Statement of Reasons," which includes the estimated business impacts, fiscal impacts to the Board, anticipated benefits, economic impact assessments and the rationales for each proposed change listed in the regulatory proposal. In short, the current level of fees is not adequate to keep the Board's fund solvent and fees need to be adjusted to reflect the actual cost to the Board to process and service each license type. Analyses conducted by DCA's Budget Office have concluded that although legislatively authorized fee increases were implemented on January 1, 2019, the reserve funds are not adequate to sustain Board budget expenditures beyond the 2022-23 Budget Year. The proposed revisions to Title 16 CCR sections 2537, 2537.1, 2590, and 2590.1 will allow the Board to continue operations and its important consumer-focused functions.

**Comment 27:** Randy Tyer, Psychiatric Technician

**Comment Summary:**

The commentor stated that the membership population has been impacted somewhat by the pandemic, but that the fee increase will affect the membership on a long-term basis.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period.

**Comment 28:** Carlos Garcia, CAPT Metro Chapter President

**Comment Summary:**

The commentor stated that the fee increase would be very a significant hardship to our population, especially with regard to the pandemic and current inflation. The commentor stated that this should not happen and that the Board should consider the hardship that it will create for the membership.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact

statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period

**Comment 29:** Jaime Garcia, CAPT Coalinga Chapter President

**Comment Summary:**

The commentor stated that for the Psychiatric Technician licensee fees to go down, and then go up again seems very unproductive, especially in a declared state of emergency. The commentor asked that the increase not proceed in this time of inflation.

**Staff's Recommended Response:**

The Board has considered the comment and makes no changes to the language of the regulation based thereon. The purpose of the proposed regulations is to increase fees to help eliminate a structural budget imbalance between the Board's revenue and expenditures so that it may continue its regulatory functions.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, curtailing investigations, closing offices intermittently, and limiting the Board's ability to adjudicate violations of the laws it administers in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection.

**Comment 30:** Toni King, CAPT DSH-Stockton Chapter President

**Comment Summary:**

The commentor stated that the fee increase is not a good fit for the membership, citing the pandemic, and the proposed fees being some of the highest among licensing fees.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact

statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period.

**Comment 31:** Chelsea Walker, Psychiatric Technician

**Comment Summary:**

The commentor opposed the licensee fee increase citing psychiatric technicians as paying some of the highest licensing fees. The commentor stated that she thought there would be a decrease in the license fee, not an increase. The commentor stated that the fee increase will be a struggle with the pandemic, and rising gas prices. The commentor questions by how much the fees will increase.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period.

**Comment 32:** Coby Pizzotti, Consultant/Partner, Lyles, Wiesmann, Pizzotti & Associates, California Association of Psychiatric Technicians (CAPT)

**Comment Summary:**

The commentor adds to his previous comment that several members of the California State Assembly Business and Professions Committee have signed a letter of opposition to the fee increase, asking for a pause or halt until such time as the Board can receive its full complement of licensee representation appointed to the Board.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon for the reasons set forth in response to this commentor's written comments at Number 15 and to similar comments set forth in Number 17 above.

**Comment 33:** Gwendolyn Wilson, Licensed Vocational Nurse, Instructor

**Comment Summary:**

The commentor asked that the Board consider that raising the license fees would be a hardship because of the pandemic, and because of the hours that have been cut.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact statement, this proposal represents a \$25-80 increase for licensing, permit, renewal, verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period

**Comment 34:** Chris Cullen, CAPT Napa Chapter President

**Comment Summary:**

The commentor stated that the membership was actually hoping for a decrease in fees. The commentor stated that the membership is already unduly burdened with many issues, could not come at a worse time, and is very confusing and distressing to the members. The commentor requested a record of opposition to the proposal.

**Staff's Recommended Response:**

The Board has considered this comment and makes no changes to the language of the regulation based thereon.

The Board has conducted a cost analysis of the Board's current fee structure and program administration to justify the application, licensing, certification, verification, delinquency, permit, and renewal fee increases. The Board's current operating costs exceed the revenue being collected and the Board is using its reserve fund to meet its structural imbalance. Continuation of this practice without a fee increase will result in the Board becoming insolvent and unable to maintain its core regulatory functions and mission of consumer protection. Further, as explained in the Board's Business Impact statement, this proposal represents a \$25-80 increase for licensing, permit, renewal,



verification, and delinquency fees and an additional \$100 increase for application and renewal for educational course providers per renewal period.



**EXECUTIVE COMMITTEE MEETING MINUTES**

**March 16, 2022**

**2535 Capitol Oaks Drive  
Administrative Conference Room  
Sacramento, CA 95833  
Via WebEX**

**Board Members Present:** Dr. Mountain, Board President  
Mr. Dierking, Board Vice President

**Board Staff Present:** Ms. Yamaguchi, Executive Officer  
Ms. Lyman, Assistant Executive Officer  
Ms. Wood, Enforcement Chief  
Ms. Archibald, Personnel Liaison  
Ms. Pires, Legislative and Regulations Specialist  
Ms. Ball, Board Administration Analyst

**DCA Staff:** Mr. Swenson, Board Counsel  
Ms. Schieldge, Board Regulatory Counsel  
Ms. Holmes, Deputy Director, Board and Bureau Relations  
Ms. Coronel, Strategic Business Analyst  
Mr. Bouilly, Facilitator & Strategic Planner

**Agenda Item 1: Roll Call/Establishment of Quorum**

Dr. Mountain called the meeting to order at 9:45 a.m. She stated that the purpose of the online hearing is the consideration of proposed amendments to sections 2537, 2537.1, 2590, and 2590.1 of the California Code of Regulations as outlined in the Public Notice regarding Fee Schedule, which was noticed in the California Regulatory Notice Register, posted to the Board’s website, and sent to all who requested such notice. She stated that the hearing is held pursuant to the procedures set forth in the Administrative Procedure Act and that the facilitator will begin the hearing at 10:00 a.m. exactly.

Dr. Mountain proceeded with roll call and identified that Mr. Dierking was present.

**Agenda Item 2: Introduction of Executive Committee Members**

Dr. Mountain identified herself as Board President and Mr. Dierking as Board Vice President of the Board of Vocational Nursing and Psychiatric Technicians, and as the two members of the Executive Committee. She introduced Board Executive Officer,

Elaine Yamaguchi, Board General Counsel, Kenneth Swenson, and Board Regulatory Counsel, Kristy Schieldge.

### **Agenda Item 3: Public Comment for Items Not on the Agenda; Matters for Future Meetings**

Dr. Mountain stated that per Government Code sections 11125 and 11125.7(a), the Committee may not discuss or act on any matter raised during the public comment section, except to place the matter on a future meeting agenda. She then called for public comment for items not on the agenda.

The meeting moderator then opened up the Q and A feature to facilitate public comment for items not on the agenda.

**Public Comment:** None

### **Agenda Item 4: Procedure for Public Hearing**

Dr. Mountain identified the time as 10:00 a.m. and recognized facilitator Elizabeth Coronel from the Department of Consumer Affairs who then provided the procedures for the public hearing.

Ms. Coronel stated that the meeting was being recorded to capture all verbal comments made by the public. She invited submission of public comments via email to [BVNPT.Rulemaking@dca.ca.gov](mailto:BVNPT.Rulemaking@dca.ca.gov).

She stated that any written comments received on the proposal by the deadline would be made a part of the permanent record.

Ms. Coronel stated that the Committee would not respond to any comment but may ask clarifying questions. She stated that responses to timely, relevant, and adverse comments would be considered and discussed at a Board meeting and that the Board will respond to all oral and written comments received in its Final Statement of Reasons, which will be included in the rulemaking file for the proposed regulatory action and posted on the Board's website, and be available from Doris Pires, as stated in the original public Notice. She added that the original Notice, proposed text, and Initial Statement of Reasons are also available on the Board's website and from the same contact person. She stated that a complete copy of the rulemaking file will also be available for review at the Board's office in Sacramento.

She stated that after all interested parties (if any) have been heard, the issue will stand submitted.

She stated that mailing list requests may be emailed to [BVNPT.Rulemaking@dca.ca.gov](mailto:BVNPT.Rulemaking@dca.ca.gov).

Ms. Coronel stated that it is the desire of the Board that the record of the hearing be clear and intelligible, and that the hearing itself be orderly, thus providing all parties with

fair and ample opportunity to be heard.

**Agenda Item 5: Regulation Hearing Regarding the Board's Proposed Amendments to Title 16, California Code of Regulations Sections 2537, 2537.1, 2590, and 2590.1**

**Comment 1:** Coby Pizzotti, Consultant/Partner, Lyles, Wiesmann, Pizzotti & Associates, California Association of Psychiatric Technicians (CAPT)

**Comment Summary:**

The commentor expressed opposition to the proposed amendment to the regulations on behalf of 6,000 state-licensed and certified members working in state hospitals, developmental centers, and prisons and as the professional organization for 12,000 psychiatric technicians in the state of California.

The commentor stated that it is poor judgment for the Board to move forward with the licensee fee increases while there is an LVN and PT vacancy on the board and cited a lack of licensee representation on the board.

The commentor stated that CAPT finds the Board's fund insolvency rationale to be faulty as the board now has a substantially greater revenue source, due to the implementation of AB 1536, which, in part, creates fees for existing and new LVN and PT programs.

The commentor stated that it is CAPT's understanding that the fees on new and existing schools, as outlined in AB 1536, do not cover the cost of the resources necessary to provide regulation and accreditation services to LVN and PT programs. The commentor stated that the Board seeks to correct its structural imbalance by increasing fees on those who can least afford it – the licensees.

The commentor cited the history of AB 179 which merged the LVN and PT funds, eliminating the unnecessary need for separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board created one licensee renewal fee at \$220 resulting in a \$70 increase for LVN's and an \$80 decrease for PTs. The commentor stated that the renewal increases to \$300 for both LVN and PTs licensees is unfair, when prelicensure education programs have paid nothing for the services they have used at the Board for over 30 years. The commentor requested that the Board halt the increase of licensee fees until it can realize the impact of the school and program fees on the fund. The commentor, on behalf of CAPT, urged the board and the hearing authority to deny the request to amend fee increases on licensees at this time.

**Comment 2:** Melissa Vartanian, SEIU 1000

**Comment Summary:**

Agreement with previous comment.

**Comment 3:** Roberta Lawson

**Comment Summary:**

The commentor asked why fees are being increased.

**Comment 4:** Shirley Jones

**Comment Summary:**

The commentor stated that the previous generation of licensees are still maintaining their licenses for sentimental reasons. She added that the Board should consider that many of these older and retired licensees may not be able to pay the increased renewal fees and will abandon the license entirely, instead of maintaining it.

**Comment 5:** Movses Chmbdyan, LVN

**Comment Summary:**

The commentor stated there is a need to know the purpose of the fee increase and an explanation of its purpose (i.e. inflation). The commentor expressed desire for discussion on the support and protection of Vocational Nurses in the workplace so that they may provide better healthcare.

**Comment 6:** Randy Tyer, PT

**Comment Summary:**

The commentor stated that the membership population has been impacted somewhat by the pandemic, but that the fee increase will affect the membership on a long-term basis.

**Comment 7:** Carlos Garcia, CAPT Metro Chapter President

**Comment Summary:**

The commentor stated that the fee increase would be very a significant hardship to our population, especially with regard to the pandemic and current inflation. The commentor stated that this should not happen and that the Board should consider the hardship that it will create for the membership.

**Comment 8:** Jaime Garcia, CAPT Coalinga Chapter President

**Comment Summary:**

The commentor stated that for the Psychiatric Technician licensee fees to go down, and then go up again seems very unproductive, especially in a declared state of emergency. The commentor asked that the increase not proceed in this time of inflation.

**Comment 9:** Toni King CAPT DSH-Stockton Chapter President

**Comment Summary:**

The commentor stated that the fee increase is not a good fit for the membership, citing the pandemic, and the proposed fees being some of the highest among licensing fees.

**Comment 10:** Chelsea Walker, Psychiatric Technician

**Comment Summary:**

The commentor opposed the licensee fee increase citing psychiatric technicians as paying some of the highest licensing fees. The commentor stated that she thought there would be a decrease in the license fee, not an increase. The commentor stated that the fee increase will be a struggle with the pandemic, and rising gas prices. The commentor questions by how much the fees will increase.

**Comment 11:** Coby Pizzotti, Consultant/Partner, Lyles, Wiesmann, Pizzotti & Associates, California Association of Psychiatric Technicians (CAPT)

**Comment Summary:**

The commentor adds to his previous comment that several members of the California State Assembly Business and Professions Committee have signed a letter of opposition to the fee increase, asking for a pause or halt until such time as the Board can receive its full complement of licensee representation appointed to the Board.

**Comment 12:** Gwendolyn Wilson, Licensed Vocational Nurse, Instructor

**Comment Summary:**

The commentor asked that the Board consider that raising the license fees would be a hardship because of the pandemic, and because of the hours that have been cut.

**Comment 13:** Chris Cullen, CAPT Napa Chapter President

**Comment Summary:**

The commentor stated that the membership was actually hoping for a decrease in fees. The commentor stated that the membership is already unduly burdened with many

issues, could not come at a worse time, and is very confusing and distressing to the members. The commentor requested a record of opposition to the proposal.

*Note: Ms. Sandra Bird attempted to verbally comment, but was unable; she was asked to submit her comment by e-mail to [BVNPT.Rulemaking@dca.ca.gov](mailto:BVNPT.Rulemaking@dca.ca.gov)*

### **Agenda Item 6: Closing Remarks**

On behalf of the Board, Mr. Dierking thanked everyone who attended the Public Hearing and made public comment. He thanked everyone who submitted public comment during the 45-day comment period leading up to the hearing.

### **Agenda Item 7: Adjournment**

Dr. Mountain thanked all attendees for their participation and adjourned the meeting at 11:18 a.m.

**From:** [Susan Bubb](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Comments re Board of LVN Fee schedule change proposal  
**Date:** Thursday, January 27, 2022 4:20:39 PM

---

[EXTERNAL]: sabubb@gmail.com

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!  
DO NOT: click links or open attachments unless you know the content is safe.  
NEVER: provide credentials on websites via a clicked link in an Email.

.....  
Absolutely oppose this due to Covid related income reductions and ongoing physical/mental pressure due to Covid.

This is NOT the time to increase fees.

Respectfully submitted,

Susan Bubb, LVN  
2312 Colony Plaza  
Newport Beach, CA 92660  
sabubb@gmail.com  
949.244.8993 cell



**From:** [Ashley Carbonell](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Proposed Fee Increase  
**Date:** Thursday, January 27, 2022 10:19:39 PM

---

[EXTERNAL]: [acarbonell19@apu.edu](mailto:acarbonell19@apu.edu)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

Hello Doris Pires,

During these days of Covid, with all of us striving on the brink of insanity working doubles and dealing with death day in and day out within the covid units... you guys want to further shove it down our throats and increase the licensing fee's?

There is already a nursing shortage, we do not make RN wage, and you want to make it harder for us to afford licensure by increasing the fee's along with inflation of every thing else we are being faced with today.

There are 87,701 active LVNs within California, since it is stated that increasing the fee's "will enable the Board to continue regulating the practice of LVNs, PTs, and prelicensure and CE providers; the fees will support the Board's daily functions", which basically means that the board which consists of 11 members will have an increase of at least \$9,208,605.00 to split and place into eachothers pockets. How much more greedy can California become? How long will it take for California government to stop screwing over one of the most important essential workforces?

Although, it does not matter what we say or oppose, you will still sit there high up on your board looking down at us, doing what you want to do regardless of how damaging you all are. We are at your mercy, yet you show none for us.

I urge you to cease the amendment and stop the increase of fee's during such an emotionally stressful and fragile economic time.

Thank you.

Ashley Carbonell LVN since 2011.

**From:** [Moses C](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Re: Speak about rule making  
**Date:** Monday, February 7, 2022 5:08:49 PM

---

[EXTERNAL]: [movsesc@gmail.com](mailto:movsesc@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

Thank you for responding to my email. I received email about online meeting on March 16th and reading about details of the email there is referring for whom wants to speak rulemaking, during the participation starts around 10 am on Webex Meeting, email has attached email to follow if I am interested to speak.

In addition, being an Vocational/Practical Nurse it is super interesting for me to review about rules in regard to Vocational Nurses and it is essential to have rules in support of the nurse's rights because currently there is no support at all, not even labor department wishing to enforce laws for Vocational Nurses workplace protection. Vocational Nurses most possibly become employees of the nursing homes where are sanctuary patients and the administration or chain of command names Vocational Nurses as charge Nurses and enforces Vocational Nurses to deal with all kinds of diseases. Plus that there are thousands of regulations to rule Vocational Nurses but not a single rule that in support to Vocational Nurse.

The other link with the email was about finance and increase of the fees of the applications. And I don't know about if there will be discussions for rules on the workplace, hopefully there is, because Vocational Nurses must be supported by at least one of the authorities, in order to provide better healthcare. However, my first email was for March 16th and I will try to attend online. Thanks you.

**From:** [Julie Corcoran](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** License fee increase for LVN's  
**Date:** Thursday, January 27, 2022 6:35:43 PM

---

[EXTERNAL]: [julianacorcoran@yahoo.com](mailto:julianacorcoran@yahoo.com)

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!  
DO NOT: click links or open attachments unless you know the content is safe.  
NEVER: provide credentials on websites via a clicked link in an Email.

.....  
I can understand the need for the Board to increase licensing fees to keep their budget in balance, but I would strongly suggest that the increases be something that is gradual and not all at once. For instance, LVN renewal is currently \$220 and the Board wants to raise it to \$300. I recommend that they increase first to \$250, then \$275, then \$300.

Just a suggestion from an LVN who hasn't had a pay raise in at least 5 years and I'm trying to make ends meet.

Thanks!

Sent from my iPhone

**From:** [Kristopher De Tar](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Over bloated BVNPT Fees  
**Date:** Thursday, January 27, 2022 8:07:21 PM

---

[EXTERNAL]: [detar62@gmail.com](mailto:detar62@gmail.com)

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!  
DO NOT: click links or open attachments unless you know the content is safe.  
NEVER: provide credentials on websites via a clicked link in an Email.

.....

I believe it is just plain criminal the BVNPT cannot live within the \$40+ million budget each year from collected fees from members to issue license renewals. So glad I'm retired!!

Sent from my iPhone

**From:** [Rachel Dutton](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** ATT: DORIS PIRES Comment Period - Fee Schedule  
**Date:** Friday, January 28, 2022 12:23:32 PM

---

[EXTERNAL]: [racheld4393@gmail.com](mailto:racheld4393@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** [click links or open attachments](#) unless you know the content is safe.

**NEVER:** [provide credentials on websites](#) via a clicked link in an Email.

---

BVNPT and Esteemed Colleagues:

I vehemently reject the proposal that has been submitted to increase the fees associated with Licensed Vocational Nurses. To increase even **only** the biennial renewal by \$80 is outrageous, especially with the knowledge that other governing boards are only increasing their fees by much less on a yearly basis to accomplish the BVNPT's same goal, which is not only recovering lost revenue due to the COVID-19 pandemic but recovering "lost fees" on a general basis.

Additionally, to increase our fees in the current political and emotional climate regarding healthcare workers will do nothing but decrease morale and further drive the Mass Resignation of us workers, including us LVNs. This is especially striking at this time due to the repercussions of the demands of healthcare workers, including but not limited to safe staffing ratio and guards for general safety, which is that we are **being punished** for serving our communities at the height of a years-long pandemic not only by our facilities but by our own governing board as well. The BVNPT has "lost fees"? The BVNPT is losing nurses who are losing money and cannot afford to care for our families with what used to be an admirable career. Unfortunately, for reasons such as remarkably increased fees and others, I and my coworkers are in awe of the disrespect and lack of consideration by this governing panel. "Admirable" is no longer an accurate word to describe that of a licensed vocational nurse or psychiatric technician.

What is it, exactly, that this increase in fee would pay for? The Board doesn't even provide "hard cards" for us. The vague explanation in the fee schedule is as equally unacceptable, as there are **no changes** available to what businesses and other entities might be affected. I am dissatisfied with this proposed increase in fees if positive effects cannot even be listed. If the increase in fees isn't a listed factor, then I'm left with no choice but to assume that the BVNPT is merely increasing their fees simply because they can; even during COVID-19 the Board's goal of "ensure[ing] that only qualified persons are licensed vocational nurses and psychiatric technicians by enforcing education requirements, standards of practice, and by educating consumers of their rights" was successful in accepting the applications of those who managed to commit to and graduate nursing school, **without** an increase in fees. I can imagine that this couldn't happen last year **because** of COVID-19; it still cannot happen now or in the next few years while all of us, who fund the BVNPT, are still recovering from the same historical event that the entire rest of the world is.

Respectfully,

Rachel Dutton  
Licensed Vocational Nurse  
#703335  
P: 951.710.7297  
Available M-F 0830-1700

**From:** [Stephanie Judd](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Opposed comment  
**Date:** Thursday, January 27, 2022 5:05:26 PM

---

[EXTERNAL]: [vintagenurselife@gmail.com](mailto:vintagenurselife@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

As a nurse, an LVN of 4 years I am opposed to this increase. Not only am I currently working under severely short staffed and hazardous conditions without any pay increase now I am asked to pay even more to renew my license just to continue to work for the same amount of pay with more hazards than before. Us nurses on the Frontline have to pay more for our education as well. Tell me how that is fair? And keep wondering why there is a nursing shortage and we are all burnt out from short staffing, working while covid positive because we don't have sick time to cover. Already paying over \$200 to renew what I earned and now I have to pay more if this passes. Ridiculous. The government needs to step in and help us in the medical field. Not take more from us.

Sincerely,

A Concerned Healthcare Worker and Licensed Nurse

**From:** [Janet Laur](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Fee increase  
**Date:** Thursday, January 27, 2022 5:09:53 PM

---

[EXTERNAL]: [janetharasz@gmail.com](mailto:janetharasz@gmail.com)

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!  
DO NOT: click links or open attachments unless you know the content is safe.  
NEVER: provide credentials on websites via a clicked link in an Email.

.....

I'm shocked at the big increase in LVN license renewal. I can barely pay rent and rent goes up every year. This is more than most LVN's can handle. Please reconsider.

Janet Laur



**From:** [Robert Mallory](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Fee  
**Date:** Saturday, January 29, 2022 11:06:53 AM

---

[EXTERNAL]: [numachief1968@gmail.com](mailto:numachief1968@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** [click links or open attachments](#) unless you know the content is safe.

**NEVER:** [provide credentials on websites](#) via a clicked link in an Email.

---

My name is Robert Mallory I am a Licensed Vocational Nurse. I agree with a fee increase. We nurses will always need representation and enforcement of nurse's regarding education, licensure's, and the many other things that are required to keep the nursing profession the best in the world. Thank you.

**From:** [Soo Manai](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Increased Renewal and Licensing Fees LVNs  
**Date:** Thursday, March 10, 2022 11:51:50 AM

---

**WARNING:** This message was sent from outside the CA Gov network. Do not open attachments unless you know the sender: [smanai@dhs.lacounty.gov](mailto:smanai@dhs.lacounty.gov)

I read the 9 page proposal for increasing our licensing fees and for me, renewing it biennially will be \$220 to \$300. That's a significant increase in fees. You don't do anything for me as an LVN renewing my license, except send me a reminder email biennial. Afterwards, I don't get a new card with a new renewal date or even an email to confirm you received my licensing fee and CEUs. In addition, I have to pay for CEUs because during work we are not given enough hours to do them. At work, we have some CEUs that are given to us, but not enough to meet the 30 CEUs. We have to buy CEUs and do them at home on our own time.

If we're working actively in a hospital or medical clinic, why do we have to do CEUs? Have you ever thought of eliminating that cost for licensed nurses? If LVNs are not working in these settings part or full time, then I see the CEU requirement as legit. Please consider removing that requirement. Renewal fees are just an administrative cost, monitoring a database, right?

I don't see the justification of increasing these fees. Can you please provide a detailed list of where our funds go and what they are spent on? And what are the reserve funds used for? And is it needed? Why was it created? How are you regulating individuals and businesses? Where is the structural imbalance? How many employees is it supporting? Have you tried eliminating job tasks or restructuring the Board's functions? And whatever costs that are negatively impacting the Board's operating budget, that's where you should increase the costs or fees, when they occur. Not to LVN's like me who just renew licensing fees biennially. It seems the scope of monitoring licensed nurses has increased with more tasks to charge us with. This increase in licensing fees should not be a fund raising event for the Board.

Living in California, the cost of living here is ridiculously expensive. Average to low income people like myself can't afford to buy a home without a second income. The increase in state taxes, city taxes, dealing with inflation, and the ridiculous increase costs of food, gas, and basic needs are horrendous. I don't agree with increasing our licensing fees. It's just too much for us. Please consider renewal fees for LVNs to \$270, instead of \$300, if that will help your budget and give us a break on increased costs. Thank you for the opportunity to share.

*So'o Manai, LVN1*  
DHS Employee Health Services, Dept. 110  
5555 Ferguson Drive, Ste. 210  
Commerce, CA 90022-5164

Phone: 323-914-7410  
smanai@dhs.lacounty.gov

**From:** [barbara.manson](mailto:barbara.manson)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** rise in fees  
**Date:** Thursday, January 27, 2022 5:16:13 PM

---

[EXTERNAL]: [barbaramanson753@gmail.com](mailto:barbaramanson753@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** [click links](#) or [open attachments](#) unless you know the content is safe.

**NEVER:** [provide credentials on websites](#) via a clicked link in an Email.

---

No longer are we receiving a card or a letter. Just a rise in prices. I do not understand why it is more costly for the board to handle the renewals.

Barbara Manson LVN  
VN214299

**From:** [Jeanne McIlravy](mailto:Jeanne.McIlravy)  
**To:** [BVNPT Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Price increase  
**Date:** Monday, January 31, 2022 7:48:04 AM

---

[EXTERNAL]: jeannemc55@icloud.com

CAUTION: THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!  
DO NOT: click links or open attachments unless you know the content is safe.  
NEVER: provide credentials on websites via a clicked link in an Email.

.....

Hello,

I do not agree with the increase proposal for LVN. For those that have had their licenses for over 30 years and you don't even provide a card anymore what justification is there?

Why not give a discount to those nurses still working after 65? They are generally on fixed incomes and have to work due to economic hardship.

This is not the best time to propose this increase with inflation skyrocketing- please reconsider.

Respectfully

Jeanne McIlravy LVN

1981

Sent from my iPhone

**From:** [Jamie Melton](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Fee Schedule Proposal Hearing March 16,2022  
**Date:** Tuesday, February 8, 2022 8:28:26 AM

---

[EXTERNAL]: [outlook\\_6FCBCAAAC9522D70@outlook.com](mailto:outlook_6FCBCAAAC9522D70@outlook.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

The hearing on March 16,2022 if passed when would the new fee structure go into effect?

Sincerely,

Jamie Melton LVN  
VN222291

Sent from [Mail](#) for Windows

**From:** [Coby Pizzotti](mailto:Coby.Pizzotti)  
**To:** [BVNPT Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Objection to the proposed fee increase on licensees  
**Date:** Monday, February 14, 2022 9:35:53 AM  
**Attachments:** [BVNPT FEE INCREASE OPPOSITION \(002\).docx](#)

---

[EXTERNAL]: [coby@psychtechs.net](mailto:coby@psychtechs.net)

**WARNING:** This message originated from the public internet. Do not open attachments unless you recognize the sender.

Doris Pires and Candace Raney,

The California Association of Psychiatric Technicians is submitting our formal objection to the proposed fee increases on licensees in the attachment to this email. Please let me know if there is anything or anyone else this document needs to go to.

Thank you.

*Coby Pizzotti*  
Consultant/Partner  
Lyles, Wiesmann, Pizzotti & Associates  
California Association of Psychiatric Technicians  
Office 916-329-9140  
Cell 916-708-5548  
1220 S Street, Sacramento CA 95811



# California Association of Psychiatric Technicians

January 31, 2022

The Board of Vocational Nursing and Psychiatric Technicians  
2535 Capitol Oaks Dr #205  
Sacramento, CA 95833

Re: Proposed Amendments to California Code of Regulations, Title 16, Division 25, Chapter 1 and 2 - **OPPOSITION**

On behalf of our 6,000 state-licensed and certified members working in state hospitals, developmental centers, and prisons and as the professional organization for 12,000 psychiatric technicians in the state of California, I am writing to inform you of our “opposition” to all the fee increases sought in this amendment to the regulations.

First, CAPT believes it is poor judgment for the BVNPT to move forward with these licensee fee increases while there is an LVN and PT vacancy on the board. The pure optics of this are that the board is seeking to “sneak” these fee increases through the process without a full complement of licensee representatives on the board. Not only is it a bad look, but it also does an incredible disservice to those that the board regulates by unfairly increasing fees without adequate representation.

Secondly, the move to increase licensee, application, and exam fees seem incredibly premature as AB 1536 just went into effect on January 1, 2022. This bill creates program accreditation fees for existing LVN and PT schools but also creates fees for new schools seeking their accreditation to begin an LVN and PT program at their campus. These fees have been in effect for less than two months, and the BVNPT is already seeking approval to increase the fees on the licensees they regulate using the argument that the LVNPT Fund will become insolvent next year. CAPT believes this rationale is faulty as the board is now receiving a substantially greater revenue source than it had in previous years.

Finally, the board has commented on its rationale for the increase in licensee fees to be commensurate with the cost of licensing and regulating a licensee. If the board is going to operate on this premise, then it should be looking to increase the fees charged to the schools as it is CAPT’s understanding that the fees on new and existing schools, as outlined in AB 1536, do not cover the cost of the resources necessary to provide regulation and accreditation services to LVN and PT programs. Once again, as they have done for the last 30 plus years, the BVNPT is seeks to balance their books on the back of those who can least afford it – the licensees.

Currently, the BVNPT’s primary source of revenue is funded by Licensed Vocational Nurse (LVN) and Psychiatric Technician (PT) licensees. The board’s current revenue stream would make sense if its sole responsibility were to regulate licensees alone; however, a large portion of its resources and staff is spent on administrative costs to accredit and regulate new and existing LVN and PT programs throughout the state. Under this system, LVNs and PTs pay licensee fees, in addition to their tuition costs of attending an LVN/PT school and the costs associated with new school accreditation and regulation by the BVNPT.

The board’s cost to process a renewal license is the same for LVNs and PTs. In 2015, AB 179 merged the LVN and PT fund, eliminating the unnecessary need for separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board decided to create one licensee renewal fee at \$220; this was a \$70 increase for LVN’s and an \$80 decrease for PTs. Now the board is seeking to move every licensee up to \$300, which would constitute a \$150 increase for LVNs in just four years. This seems incredibly unfair when schools and LVN and PT programs have had a free ride paying nothing for the services they have used at the board for well over 30 years. The board should halt the move to increase licensee fee increases until they can fully understand how the newly created LVN and PT school and program fees will impact the fund solvency. Additionally, if a change needs to be made to maintain board solvency, then the fee increases to licensees and LVN and PT schools/programs should be made



simultaneously. This will help the board avoid the appearance of once again balancing their books on those with the least ability to afford it.

For the reasons outlined above, CAPT strongly urges the board and the hearing authority to deny the request to amend fee increases on licensees at this time.

If you have any questions, please do not hesitate to contact me at (916) 329-9140.

Sincerely,

A handwritten signature in black ink, appearing to read 'Coby Pizzotti', with a stylized flourish at the end.

Coby Pizzotti  
California Association of Psychiatric Technicians

**From:** [Victor Roman](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** From Victor Roman LPT since 1981  
**Date:** Saturday, February 12, 2022 12:11:29 PM

---

[EXTERNAL]: [victor.roman@rocketmail.com](mailto:victor.roman@rocketmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

Regarding Hearing on Proposed Regulatory Action Concerning Amendments to sections 2537, 2590, (Fees), 2537.1 and 2590.1 (Provider Fees), of Title 16 of the California Code of Regulations relating to Vocational Nurses and Psychiatric Technicians and Continuing Education Providers:

I have been a California Licensed Psychiatric Technician since 1981. What I have incurred with the LVN/LPT Board is a consistent inability to answer the phone (remember telephones) for days on end. This is always around the time of paying my licensing fee. So, #1- communication service has never improved with time. When I do obtain someone on the telephone - that person gives a list of answers as to why (more like what I did wrong on my application) my license has not been renewed. I literally must have in front of me a photocopy of my application, the date I mailed it and the green card from post office that assures someone signs for the letter, so they do not say, "it was never received." I have lost jobs applied for because of the consistent tardiness of the LVN/LPT Board not making an effort to expediate my application process. Then the Board went from issuing a license to an issuing a piece of printed paper and now one must check online to verify a license as no longer a material license is issued. What I want to know prior to the LVN/LPT Board giving itself yet another raise - what are they doing, or have they done in the past to ensure that my application for renewal of licensing is processed in an expedient manner? Historically - the LVN/LPT Board has been overtly hostile in any sort of contact with them, and it appears they are doing their best to discourage any sort of reissuing of my license as evidence by the lack of ability to handle incoming phone calls for the last 40 years! Their inability to process my license in a timely manner even though I have historically sent my renewal in months in advance. This is not just my complaint - indeed there are many LVN's and LPT's with the same complaints of slow processing time, rude employees and the open discouraging of license renewals by consistent tardiness and difficulty of talking to a real person. I include as evidence:

<https://www.chamberofcommerce.com/united-states/california/sacramento/administration-of-general-economic-programs/42509125-board-of-vocational-nursing-psychiatric-technicians>

<https://www.ripoffreport.com/reports/ca-board-of-vocational-nursing-and-psychiatric-technicians/sacramento-california-95833/ca-board-of-vocational-nursing-and-psychiatric-technicians-bvnpt-hundreds-of-nurses-suffe-1417597>

<https://www.yelp.com/biz/board-of-vocational-nursing-and-psychiatric-technicians-sacramento>

While there are some positive letters from consumers there is a consistent thread of inability to contact a person and the consistent delay in license processing time. Ladies and Gentlemen; I have been experiencing these same issues since 1981 and still - these issues are not properly addressed (if at all) For the money we pay for a license renewal - I would like to see some of it invested in improved delivery of customer service from the LVN/LPT Board. We give them the money - they should give us better service and more positive support. Having to renew my license every 2 years should not be a source of anxiety and pressure to be able to have photocopies to prove what is already in their possession. One of the latest times I did renew my license - I had lost my job prospects because of their delay of over 3 months of inability to process the application. After 2 weeks of trying to get a person on the phone the lady I spoke to went down a list of reasons why my license was not renewed. I challenged and proved wrong each suggestion because I had everything photocopied in front of me. Until finally she said, "Well they tell me to say this" She finally verified all was correct and stated it would be in the mail that day. I felt as though I had entered some sort of verbal wrestling match just to get the process moving! No - I do not think the LVN/LPT Board should give themselves another raise - when they first need to address age old issues of inability to connect with a live person and inability to process license renewal application in a more expedient and timely manner. I would like this

question brought up during the Hearing on Proposed Regulatory Action Concerning Amendments to sections 2537, 2590, (Fees), 2537.1 and 2590.1 (Provider Fees), of Title 16 of the California Code of Regulations

relating to Vocational Nurses and Psychiatric Technicians and Continuing Education Providers.

Thank you for your time in reading this concern.

Sincerely,

Victor A. Roman

**From:** [nancy.miller](mailto:nancy.miller)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** increase in renewal  
**Date:** Saturday, January 29, 2022 2:03:55 PM

---

[EXTERNAL]: [njsmnrsmam@gmail.com](mailto:njsmnrsmam@gmail.com)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

---

Last time I renewed for Calif. they sent back my money order with a notice too early to renew, so I waited until the time period acceptable. And then they were gonna be late and I was working an assignment in Calif, and I had to call and they had to rush it thru. If your gonna make it more expensive then you better make it better. Because right now renewing in Calif is terrible.

Thank you, Nancy Sanchez

**From:** [Clover, Dawn](#)  
**To:** [BVNPT.Rulemaking@DCA](mailto:BVNPT.Rulemaking@DCA)  
**Subject:** Proposed Fee Schedule Regulation  
**Date:** Tuesday, March 15, 2022 3:20:51 PM  
**Attachments:** [3.8.22 BVNPT Letter.pdf](#)

---

**WARNING:** This message was sent from another CA Gov Agency:  
Dawn.Clover@asm.ca.gov . Please use caution opening attachments.

Good afternoon,  
Please see the attached letter citing concerns with the proposed regulation.  
Thank you for your time and consideration,  
Dawn

*Dawn M. Clover  
Legislative Director  
Office of Assemblymember Freddie Rodriguez*

# California Legislature

March 8, 2022

The Board of Vocational Nursing and Psychiatric Technicians  
2535 Capitol Oaks Drive #205  
Sacramento, California 95833

Re: Proposed Amendments to California Code of Regulations, Title 16, Division 25, Chapters 1 and 2 -  
**OPPOSITION**

Dear Board of Vocational Nursing and Psychiatric Technicians,

We are writing today to request the Board of Vocational Nursing and Psychiatric Technicians (BVNPT/Board) temporarily halt seeking an amendment to CCR, Title 16, Division 25, Chapter 1 and 2, which would increase licensing fees on licensees and applicants for examination.

The Board's cost to process a renewal license is the same for Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs). In 2015, AB 179 (Bonilla, Chapter 510, Statutes of 2015) merged the LVN and PT fund, eliminating separate and unequal licensing renewal fee structures (\$150 for LVNs and \$300 for PTs). With the merger of the two funds, the board decided to create one licensee renewal fee set at \$220; this was a \$70 increase for LVN's and an \$80 decrease for PTs. The new proposal seeks to move every licensee up to \$300, constituting a \$150 increase for LVNs in just four years.

Last year, we were joined by our Assembly colleagues in supporting AB 1536 (Committee on Business and Professions, Chapter 632, Statutes of 2021), which provided the BVNPT the ability to collect fees on schools and nursing programs seeking accreditation from its regulatory board. Consequently, with this new revenue source, the BVNPT no longer needs to rely solely on the licensing fees for its operating expenses. AB 1536 was enacted on January 1, 2022. It appears premature for the Board to consider additional revenue sources without first realizing the potential of AB 1536. Furthermore, increasing the licensing fees on an essential workforce who worked on the frontlines of the pandemic communicates a shortage of gratitude and appreciation for the sacrifices they and their families made.

This move may signal the fees for providing regulation and accreditation were not significant enough to cover the resources they use. If that assessment is correct, it would seem logical that the BVNPT should seek additional legislation giving the Board the authority to cover the actual cost of the resources those entities utilize. Unfortunately, with the board's move to seek increases on LVN and PT licensees, it would again be subsidizing the schools and nursing programs and shifting the burden back to those who can least afford it. A licensing fee hike hardly seems equitable since licensees have, until recently, paid for all the services the Board provides. It stands to reason we should wait to see how much revenue is generated from the new fees on schools and nursing programs before we adjust fees on licensees.

Additionally, I understand that only two of the four LVN and PT positions on the board are filled. Seeking to change licensure fees without adequate representation from those that would be impacted does not seem fair. The BVNPT has two LVN and two PT positions reserved on the board to ensure licensees are represented in important decisions such as this. This process should not have begun without the full complement and representation of LVNs, and PTs seated on the board.

We would appreciate the Board taking more time to evaluate the actual flow of revenue generated from AB 1536 and allow for LVN and PT vacancies on the board to be filled before any action is taken to seek an increase in licensure fees.

Thank you for your consideration of this request.

Sincerely,



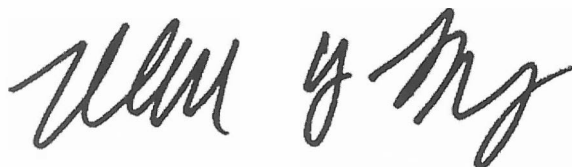
FREDDIE RODRIGUEZ  
Assemblymember, 52<sup>nd</sup> District



KEVIN MCCARTY  
Assemblymember, 7<sup>th</sup> District



JORDAN CUNNINGHAM  
Assemblymember, 35<sup>th</sup> District



PHIL TING  
Assemblymember, 19<sup>th</sup> Assembly District



## MEMORANDUM

<b>DATE</b>	November 5, 2021
<b>TO</b>	Board Members Board of Vocational Nursing and Psychiatric Technicians
<b>FROM</b>	<i>Kristy Schieldge</i> Kristy Schieldge, Attorney IV Department of Consumer Affairs, Legal Affairs Division
<b>SUBJECT</b>	<b>Agenda Item 5: Discussion Regarding Fiduciary Responsibilities, Liabilities, and Governing Laws with Respect to the Fiscal State of the Board</b>

### Introduction

The purpose of this agenda item is to inform the Board members about their fiduciary duties and responsibilities under California law for the fiscal management and administration of the Board's fund. The discussion will focus on the duties imposed on all Board members and the Board's Executive Officer and the potential liability associated with noncompliance under California law.

### Governing Laws

The Board is authorized pursuant to California's Budget Act (Assembly Bill (AB) 128 (Ch. 21, Stats. 2021) and the Department of Finance to spend money ("expenditures") and incur monetary obligations for specific purposes, for example, to pay for personnel and Attorney General costs ("budgetary appropriation"). A budgetary appropriation for a specific purpose is usually limited by the amount and time during which it may be expended (e.g., the current fiscal year), and the Board's ability to spend money is strictly tied to that appropriation.

Board members, through their Executive Officer, are responsible for ensuring that the Board remains solvent and does not attempt to incur expenditures in excess of the Board's legally authorized budgetary appropriation. California law imposes on state officers, including Board members, the following responsibilities and corresponding liability for failing to meet those responsibilities.



Government Code section 13320 requires every state agency, including the Board, to submit to the Department of Finance:

a complete and detailed budget at such time and in such form as may be prescribed by the department, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.

Government Code section 13324 provides:

Every person who incurs any expenditure in excess of the allotments or other provisions of the fiscal year budget as approved by the department or as subsequently changed by or with the approval of the department, is ***liable both personally and on his official bond for the amount of the excess expenditures.*** (Emphasis added.)

Section 32.00 of the Budget Act provides, in pertinent part:

(a) **The officers of the various** departments, **boards**, commissions, and institutions, for whose benefit and support appropriations are made in this act, **are expressly forbidden to make any expenditures in excess of these appropriations.** Any indebtedness attempted to be created against the state in violation of this section shall be null and void, and shall not be allowed by the Controller nor paid out of any state appropriation.

(b) **Any member of a** department, **board**, commission, or institution **who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act shall be liable both personally and on the member's official bond for the amount of the indebtedness,** to be recovered in any court of competent jurisdiction by the person or persons, firm, or corporation to which the indebtedness is owing. . . .

(c) Neither subdivision (a) nor (b) applies to the expenditure of moneys to fund continuous appropriations, including appropriations made in the California Constitution, and federal laws mandating the expenditure of funds. (Emphasis added.)

### **Discussion**

Based upon the foregoing, the Board's operations and spending must strictly follow the appropriations approved by the Department of Finance and authorized by the Budget Act.

Under the foregoing authorities, expenditures in excess of the appropriations made in the Budget Act will be disallowed by the State Controller and an action to create such indebtedness would trigger personal liability in the amount of the unauthorized indebtedness for the Board's officers, which include the Board members and its Executive Officer. This would be the legal equivalent of writing a check for which no funds are available. An example

might include voting to settle litigation for a monetary amount in excess of what the Board's fund is authorized to spend or for which the Board does not currently have funds available.

**Conclusion**

In essence, the Board and its Executive Officer have a responsibility to ensure the Board does not vote for or authorize the spending of money in excess of the amounts authorized by the Budget Act, or for unauthorized purposes.

I will be available at the meeting to answer questions the members may have.