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AB-1536 Board of Vocational Nursing and Psychiatric Technicians of the State of California: vocational nursing and psychiatric technicians. (2021-2022)

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Assembly Bill No. 1536

CHAPTER 632

An act to amend Sections 2841, 2841.3, 2847.1, 2847.3, 2857, 2859, 2860.5, 2860.7, 2862, 2864, 2866, 2867, 2867.6, 2871, 2872.2, 2873, 2873.5, 2873.6, 2876, 2877, 2878, 2878.1, 2878.5, 2878.7, 2879, 2885, 2886, 2892.5, 2895.1, 4501, 4502, 4502.1, 4502.2, 4502.3, 4503, 4504, 4510, 4512, 4516, 4521, 4521.2, 4522, 4523, 4524, 4541, 4542, and 4545.3 of, to add Sections 2872.3, 2881.3, 4510.2, and 4531.2 to, and to add and repeal Sections 2881.2 and 4531.1 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, Committee on Business and Professions. Board of Vocational Nursing and Psychiatric Technicians of the State of California: vocational nursing and psychiatric technicians.

Existing law, until January 1, 2022, establishes the Board of Vocational Nursing and Psychiatric Technicians of the State of California to license and regulate vocational nurses and psychiatric technicians. Existing law requires the board to discipline the holder of any license whose default has been entered or who has been heard by the board and found guilty.

This bill, among other things, would extend the existence of the board and its powers to January 1, 2025.

Existing law, prior to January 1, 2018, required the board to appoint an executive officer to perform duties delegated by the board. Existing law, beginning January 1, 2018, and until January 1, 2022, instead requires the Governor to appoint an executive officer, and, commencing January 1, 2022, requires the executive officer to again be appointed by the board. Existing law repeals the authority to appoint an executive officer on January 1, 2023.

This bill would require the executive officer in office on December 31, 2021, to continue in the position until that position is vacated or the board selects another executive officer. The bill would require the board to delegate to the executive officer the authority to adopt a decision entered by default and to adopt a stipulation for surrender of a license.

Existing law, the Vocational Nursing Practice Act, provides for the licensure and regulation of vocational nurses by the board. That act, among other things, authorizes a licensed vocational nurse to withdraw blood, administer medications, and start and superimpose intravenous fluids, as described, when directed by a physician and surgeon. That act also authorizes a licensed vocational nurse to perform certain tests and immunization techniques, as described, when acting under the direction of a physician and requires the physician to fulfill certain requirements when authorizing the nurse to perform those tests or techniques.

This bill would instead specify that a vocational nurse is authorized to take the above-described actions under the direction of a licensed physician and surgeon.

The Vocational Nursing Practice Act requires an applicant for a vocational nursing license to pay the required fees upon filing of the application. Under the act, the board is also required to prepare and maintain a list of approved schools of vocational nursing in this state whose graduates, if they have the other necessary qualifications, shall be eligible to apply for a vocational nursing license.

This bill would require the vocational nursing license application to be on a form prescribed by the board. The bill, until January 1, 2025, would impose application, final approval, and continuing approval fees on vocational nursing schools and programs, provide timelines that the board and those schools and programs are required to follow during the board approval process, and require the adoption of emergency regulations no later than June 30, 2022, as provided. The bill would also require the board to maintain a list of inactive vocational nursing schools and programs seeking board approval and would impose additional requirements on those schools and programs. The bill would provide that a vocational nursing school or program seeking board approval that remains on the inactive list for 90 days shall be taken out of consideration for a new program and may only reapply after 6 months.

Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians (PTs) by the board. That law, among other things, authorizes a psychiatric technician to perform certain activities, withdraw blood, and administer medications when prescribed by a physician and surgeon. Existing law requires the board to prepare and maintain a list of approved schools that offer an approved program for psychiatric technicians.

This bill would specify that a psychiatric technician is authorized to take these actions when prescribed by a licensed physician and surgeon. The bill, until January 1, 2025, would impose application, final approval, and continuing approval fees on psychiatric technician schools and programs, provide timelines that the board and those schools and programs are required to follow during the board approval process, and require the adoption of emergency regulations no later than June 30, 2022, as provided. The bill would also require the board to maintain a list of inactive psychiatric technician schools and programs seeking board approval and would impose additional requirements on those schools and programs. The bill would provide that a psychiatric technician school or program seeking board approval that remains on the inactive list for 90 days shall be taken out of consideration for a new program and may only reapply after 6 months.

This bill would also make various nonsubstantive changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2841 of the Business and Professions Code is amended to read:

2841. (a) There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, which consists of 11 members.

(b) As used in this chapter, "board" means the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(c) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 2841.3 of the Business and Professions Code is amended to read:

2841.3. If the board is made inoperative or is repealed, the director may, until December 31, 2024, assume the duties, powers, purposes, responsibilities, and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.

SEC. 3. Section 2847.1 of the Business and Professions Code is amended to read:

2847.1. (a) Except as provided in subdivision (f), the board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The executive officer shall not be a member of the board.

(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of their duties. The executive officer shall make a statement, certified before a duly authorized person, that the expenses have been actually incurred.

(e) Commencing January 1, 2018, the executive officer appointed by the board pursuant to subdivision (a) is abolished. Thereafter, until January 1, 2022, the executive officer shall be appointed as set forth in Section 2847.3.

(f) Commencing January 1, 2022, the executive officer shall, again, be selected by the board as set forth in subdivision (a), except that any executive officer in office on December 31, 2021, shall continue in the position as executive officer of the board until the position is vacated or the board selects another executive officer.

(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 4. Section 2847.3 of the Business and Professions Code is amended to read:

2847.3. (a) Commencing January 1, 2018, the executive officer position established pursuant to subdivision (a) of Section 2847.1 is temporarily abolished. Commencing January 1, 2018, the Governor shall appoint an executive officer who shall perform duties as are delegated by the board and who shall be responsible for the accomplishment of those duties. The executive officer shall exercise all powers, discharge all responsibilities, and administer and enforce all laws pursuant to this chapter and Chapter 10 (commencing with Section 4500) of Division 2 that are necessary to perform the duties delegated by the board.

(b) The executive officer shall serve at the pleasure of the Governor and the Governor shall fix the salary of the executive officer.

(c) The executive officer shall not be a member of the board.

(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of their duties.

(e) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 5. Section 2857 of the Business and Professions Code is amended to read:

2857. The board shall issue a license designated as a vocational nurse license.

SEC. 6. Section 2859 of the Business and Professions Code is amended to read:

2859. (a) The practice of vocational nursing within the meaning of this chapter is the performance of services requiring those technical, manual skills acquired by means of a course in an approved school of vocational nursing, or its equivalent, practiced under the direction of a licensed physician and surgeon, or registered nurse, as defined in Section 2725.

(b) A vocational nurse, within the meaning of this chapter, is a person who has met all the legal requirements for a license as a vocational nurse in this state and who for compensation or personal profit engages in vocational nursing, as defined under subdivision (a).

SEC. 7. Section 2860.5 of the Business and Professions Code is amended to read:

2860.5. A licensed vocational nurse when directed by a licensed physician and surgeon may do all of the following:

(a) Administer medications by hypodermic injection.

(b) Withdraw blood from a patient, if the licensed vocational nurse has been instructed by a licensed physician and surgeon and has demonstrated competence to the licensed physician and surgeon in the proper procedure to be employed when withdrawing blood, or has satisfactorily completed a prescribed course of instruction approved by the board, or has demonstrated competence to the satisfaction of the board.

(c) Start and superimpose intravenous fluids if all of the following additional conditions exist:

(1) The licensed vocational nurse has satisfactorily completed a prescribed course of instruction approved by the board or has demonstrated competence to the satisfaction of the board.

(2) The procedure is performed in an organized health care system in accordance with the written standardized procedures adopted by the organized health care system as formulated by a committee which includes representatives of the medical, nursing, and administrative staffs. "Organized health care system," as used in this section, includes facilities licensed pursuant to Section 1250 of the Health and Safety Code, clinics, home health agencies, physician's offices, and public or community health services. Standardized procedures so adopted will be reproduced in writing and made available to total medical and nursing staffs.

SEC. 8. Section 2860.7 of the Business and Professions Code is amended to read:

2860.7. (a) A licensed vocational nurse, acting under the direction of a licensed physician and surgeon may perform: (1) tuberculin skin tests, coccidioidin skin tests, and histoplasmin skin tests, providing such administration is within the course of a tuberculosis control program, and (2) immunization techniques, providing such administration is upon standing orders of a supervising licensed physician and surgeon, or pursuant to written guidelines adopted by a hospital or medical group with whom the supervising licensed physician and surgeon is associated.

(b) The supervising licensed physician and surgeon under whose direction the licensed vocational nurse is acting pursuant to subdivision (a) shall require the licensed vocational nurse to do all of the following:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunizations.

(2) Possess such medications and equipment as required, in the medical judgment of the supervising licensed physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability to administer such medications and to utilize such equipment as necessary.

(c) Nothing in this section shall be construed to require physical presence of a directing or supervising licensed physician and surgeon, or the examination by a licensed physician and surgeon of persons to be tested or immunized.

SEC. 9. Section 2862 of the Business and Professions Code is amended to read:

2862. Vocational nursing services may be rendered by a student enrolled in an approved school of vocational nursing when these services are incidental to the student's course of study.

SEC. 10. Section 2864 of the Business and Professions Code is amended to read:

2864. Every licensee under this chapter may be known as a licensed vocational nurse and may place the letters "L.V.N." after the licensee's name.

SEC. 11. Section 2866 of the Business and Professions Code is amended to read:

2866. An applicant for a vocational nurse license shall comply with each of the following:

(a) Be at least 17 years of age.

(b) Have successfully completed at least an approved course of study through the 12th grade or the equivalent thereof as specified by the board.

(c) Have successfully completed the prescribed course of study in an approved school of vocational nursing or have graduated from a school which, in the opinion of the board, maintains and gives a course which is equivalent to the minimum requirements for an approved school of vocational nursing in this state.

(d) Not be subject to denial of licensure under Section 480.

SEC. 12. Section 2867 of the Business and Professions Code is amended to read:

2867. An applicant for a license authorizing the practice of vocational nursing in this state under this chapter, upon the filing of an application for a vocational nurse license on a form prescribed by the board, shall pay the fee required by this chapter.

SEC. 13. Section 2867.6 of the Business and Professions Code is amended to read:

2867.6. After receiving the results of having passed the examination and upon receipt of the initial license fee required by subdivision (h) of Section 2895, the board shall issue a receipt or temporary certificate which will serve as a valid permit for the licensee to practice under this chapter.

SEC. 14. Section 2871 of the Business and Professions Code is amended to read:

2871. Any applicant who fails to pass the first examination may take a second examination upon payment of the fee required by this chapter.

SEC. 15. Section 2872.2 of the Business and Professions Code is amended to read:

2872.2. (a) An applicant for license by examination shall submit a written application in the form prescribed by the board.

(b) If the application for licensure by examination is received by the board no later than four months after completion of a board-approved nursing program and approval of the application, the board may issue an interim permit authorizing the applicant to practice vocational nursing pending the results of the first licensing examination, or for a period of nine months, whichever occurs first. An applicant may submit an application for an interim permit at the same time as the applicant submits an application for licensure by examination. The board shall make a decision whether to issue the interim permit and, if the board decides to issue the interim permit, shall issue the interim permit to the applicant within 60 days of receiving the completed application.

(c) If the applicant passes the examination, the interim permit shall remain in effect until an initial license is issued by the board or for a maximum period of six months after passing the examination, whichever occurs first. If the applicant fails the examination, the interim permit shall terminate upon notice by certified mail, return receipt requested, or if the applicant fails to receive the notice, upon the date specified in the interim permit, whichever occurs first.

(d) A permittee shall function under the supervision of a licensed vocational nurse or a registered nurse, who shall be present and available on the premises during the time the permittee is rendering professional services. The supervising licensed vocational nurse or registered nurse may delegate to the permittee any function taught in the permittee's basic nursing program.

(e) An interim permittee shall not use any title or designation other than vocational nurse interim permittee or "V.N.I.P."

SEC. 16. Section 2872.3 is added to the Business and Professions Code, to read:

2872.3. (a) Applicants and licensees shall provide the board a physical mailing address.

(b) Applicants and licensees shall provide the board an electronic mail address no later than July 1, 2022. Unless an applicant specifies in writing a preference for regular mail, the board shall direct all license-related correspondence to applicants and licensees using the electronic mail address on file, including, but not limited to, renewal notices and deficiency notices.

(c) The board may annually send an electronic notice to applicants and licensees to confirm their electronic mail address is current.

SEC. 17. Section 2873 of the Business and Professions Code is amended to read:

2873. Any person possessing either the education or the experience, or any combination of both the education and the experience, equivalent to that acquired in an approved school of vocational nursing may be licensed as a vocational nurse under the provisions of this chapter, provided that the person successfully demonstrates to the board that the person possesses the necessary qualifications, and successfully passes the examinations or tests as may from time to time be required by the board.

SEC. 18. Section 2873.5 of the Business and Professions Code is amended to read:

2873.5. Any person who has served on active duty in the medical corps of any of the armed forces, in which no less than an aggregate of 12 months was spent in rendering bedside patient care, and who has completed the basic course of instruction in nursing required by the person's particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, or whose general discharge has been under honorable conditions, shall be granted a license upon proof that the person possesses the necessary qualifications of this section, as set forth in the person's service records, and upon the passing of an examination.

SEC. 19. Section 2873.6 of the Business and Professions Code is amended to read:

2873.6. (a) Any person who on the effective date of this section is employed as a medical technical assistant or as a senior medical technical assistant by the Department of Corrections and Rehabilitation, who served on active duty in the medical corps of any of the Armed Forces of the United States or who served in the United States Public Health Service, in which no less than an aggregate of 12 months was spent in rendering patient care, who completed the basic course of instruction in nursing required by the United States Public Health Service, or by a particular branch of the armed forces, and who was honorably discharged therefrom, shall be granted an employment restricted license upon proof that the person possesses the necessary qualifications of this section as set forth in the person's service and discharge records. An employment restricted license issued pursuant to this subdivision shall authorize the holder thereof to practice vocational nursing only within a facility of the Department of Corrections and Rehabilitation and shall be valid only for the period of employment. In order to obtain a nonrestricted license as a vocational nurse, a medical technical assistant shall apply and take the examination as required and normally administered by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(b) On and after the effective date of this section, no person shall be appointed as a medical technical assistant by the Department of Corrections and Rehabilitation unless the person complies with one of the following:

(1) Is a licensed vocational nurse or a registered nurse.

(2) Has served on active duty in the medical corps of any of the Armed Forces of the United States or who served in the United States Public Health Service, in which no less than an aggregate of 12 months was spent in rendering patient care, who completed the basic course of instruction in nursing required by the United States Public Health Service, or by a particular branch of the armed forces, and who has been honorably discharged therefrom. The Department of Corrections and Rehabilitation is authorized only to hire persons who are eligible for licensure, and as a condition of employment shall require that those persons obtain a license as a vocational nurse within six months of employment. The person shall be supervised by a registered nurse or physician and surgeon and shall not administer medications until licensed.

(c) Notwithstanding subdivision (a), any person who was granted a restricted vocational nurse's license pursuant to that subdivision and who was employed in the psychiatric unit of the California Medical Facility at the time of the unit's transfer from the Department of Corrections to the State Department of Mental Health on July 1, 1988, shall continue to hold their license.

SEC. 20. Section 2876 of the Business and Professions Code is amended to read:

2876. (a) The board shall discipline the holder of any license, whose default has been entered or who has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing the licensee on probation.

(3) Suspending the licensee's right to practice vocational nursing for a period not exceeding one year.

(4) Revoking the licensee's license.

(5) Taking such other action in relation to disciplining the licensee as the board in its discretion may deem proper.

(b) The board shall delegate to its executive office the authority to adopt a decision entered by default and a stipulation for surrender of a license.

SEC. 21. Section 2877 of the Business and Professions Code is amended to read:

2877. If the holder of a license is suspended, the licensee shall not be entitled to practice vocational nursing during the term of suspension and shall return the license to the board.

Upon the expiration of the term of suspension, the licensee shall be reinstated by the board and shall be entitled to resume the practice of vocational nursing unless it is established to the satisfaction of the board that the licensee has practiced vocational nursing in this state during the term of suspension. In this event, the board shall revoke the license.

SEC. 22. Section 2878 of the Business and Professions Code is amended to read:

2878. The board may suspend or revoke a license issued under this chapter for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence of the conviction.

(3) The use of advertising relating to nursing which violates Section 17500.

(4) The use of excessive force upon or the mistreatment or abuse of any patient. For the purposes of this paragraph, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(5) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.

(6) Failure to report the commission of any act prohibited by this section.

(b) Procuring a certificate by fraud, misrepresentation, or mistake.

- (c) Procuring, aiding, abetting, attempting, or agreeing or offering to procure or assist at, a criminal abortion.
- (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.
- (e) Making or giving any false statement or information in connection with the application for issuance of a license.
- (f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.
- (g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.
- (h) Impersonating another practitioner, misrepresenting professional credentials or licensure status, or permitting another person to use the licensee's certificate or license.
- (i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of Article 12 (commencing with Section 2220) of Chapter 5.
- (j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.
- (k) The commission of any act punishable as a sexually related crime, if that act is substantially related to the duties and functions of the licensee.
- (l) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Podiatric Medical Board of California, the Board of Dental Examiners, and the Board of Registered Nursing, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 23. Section 2878.1 of the Business and Professions Code is amended to read:

2878.1. (a) If a licensed vocational nurse has knowledge that another person has committed any act prohibited by Section 2878, the licensed vocational nurse shall report this information to the board in writing and shall cooperate with the board in furnishing information or assistance as may be required.

(b) Any employer of a licensed vocational nurse shall report to the board the suspension or termination for cause, or resignation for cause, of any licensed vocational nurse in its employ. In the case of licensed vocational nurses employed by the state, the report shall not be made until after the conclusion of the review process specified in Section 52.6 of Title 2 of the California Code of Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194. This required reporting shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (d) and shall not be subject to discovery in civil cases.

(c) An employment agency or nursing registry shall report to the board the rejection from assignment of a licensed vocational nurse by a health facility or home health care provider due to acts that would be cause for suspension or termination as described in subdivision (d).

(d) For purposes of this section, "suspension, termination, or resignation for cause" or "rejection from assignment" are defined as suspension, termination, or resignation from employment, or rejection from assignment, for any of the following reasons:

- (1) Use of controlled substances or alcohol to the extent that it impairs the licensee's ability to safely practice vocational nursing.
- (2) Unlawful sale of a controlled substance or other prescription items.
- (3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.
- (4) Falsification of medical records.

(5) Gross negligence or incompetence.

(6) Theft from patients or clients, other employees, or the employer.

(e) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars (\$10,000) per violation.

(f) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this chapter.

(g) The board shall implement this section contingent upon the necessary funding in the annual Budget Act.

(h) For purposes of this section, "employer" includes employment agencies and nursing registries.

SEC. 24. Section 2878.5 of the Business and Professions Code is amended to read:

2878.5. In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to the licensee or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the licensee, any other person, or the public, or to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by their license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of that commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

SEC. 25. Section 2878.7 of the Business and Professions Code is amended to read:

2878.7. (a) A person whose license has been revoked, suspended, surrendered, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the disciplinary order or if any portion of the order is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for the reinstatement of a license that was revoked or surrendered, except that the board may, in its sole discretion, specify in its order a lesser period of time, which shall be no less than one year, to petition for reinstatement.

(2) At least two years for the early termination of a probation period of three years or more.

(3) At least one year for the early termination of a probation period of less than three years.

(4) At least one year for the modification of a condition of probation, or for the reinstatement of a license revoked for mental or physical illness.

(b) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that the petitioner is entitled to the relief sought in the petition.

(c) The board itself or the administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(d) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

(e) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(f) Except in those cases where the petitioner has been disciplined for a violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter the provisions of Sections 822 and 823.

SEC. 26. Section 2879 of the Business and Professions Code is amended to read:

2879. (a) Notwithstanding Section 2878 or any other law, the board may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a licensed vocational nurse.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of the applicant's criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 27. Section 2881.2 is added to the Business and Professions Code, to read:

2881.2. (a) The approval process for a school or program shall be consistent with the following timelines:

(1) (A) Upon receipt of a letter of intent to submit an application for approval as a school or program of licensed vocational nursing, the board shall notify the proposed school or program of the steps in the approval process and provide an estimated wait time until active assignment to a nursing education consultant.

(B) Upon active assignment of a nursing education consultant, the school or program shall submit an initial application for approval within 60 days.

(2) (A) Within 30 days of the date the board receives an initial application for approval, the board shall notify the school or program whether the application is complete.

(B) A notice that an initial application is not complete shall specify what additional documents or payment of fees the school or program is required to submit to the board to make the application complete.

(3) Within 60 days from the date the board notifies the school or program that the initial application is not complete, the school or program shall provide the missing information. If a school or program fails to submit the required information, the board shall take the application out of consideration consistent with subdivision (c) of Section 2881.3. The board may provide a school or program with an additional 30 days to complete its application.

(4) Within six months of the date the board receives an initial application for approval as a school or program, the board shall approve the school or program, deny approval, or notify the school or program that corrective action is required.

(b) A school or program of vocational nursing seeking approval by the board shall remit to the board for deposit in the Vocational Nursing and Psychiatric Technicians Fund fees in accordance with the following schedule:

(1) The nonrefundable initial application fee shall be in an amount equal to the reasonable costs incurred by the board in reviewing and processing the application up to five thousand dollars (\$5,000).

(2) (A) Except as provided in subparagraph (B), the final approval fee shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to fifteen thousand dollars (\$15,000).

(B) The final approval fee for an applicant program that meets all of the following criteria shall be an amount equal to the reasonable costs incurred by the board in the application approval process up to five thousand dollars (\$5,000):

(i) The program is affiliated with an approved school or program that is in good standing.

(ii) The program utilizes the curriculum and policies approved by the board for the approved school or program.

(3) The continuing approval fee shall in be an amount equal to the reasonable costs incurred by the board in providing oversight and review of a school or program up to five thousand dollars (\$5,000) once every four years.

(c) If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board's reasonable costs associated with that school or program.

(d) The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in state funding that directly leads to a reduction in enrollment capacity. The board shall require a program to provide documentation for the purposes of issuing the fee delay.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the board shall, without taking any further regulatory action, implement, interpret, or make specific this section by means of provider bulletins or similar instructions until emergency regulations are adopted pursuant to paragraph (2). The board shall provide written notice 30 days prior to the adoption of any instruction under this paragraph and post the notice on its internet website. It is the intent of the Legislature that the board have temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) The board shall adopt emergency regulations no later than June 30, 2022. The adoption of regulations shall be deemed an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare within the meaning of Section 11342.545 of the Government Code, and the board need not make a written finding of emergency as required by Section 11346.1 of the Government Code. Notwithstanding subdivisions (e) and (h) of Section 11346.1 of the Government Code, the board may annually readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section until January 1, 2024.

(3) The initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State. The emergency regulations shall remain in effect for no more than one year from the date any regulation became effective as an emergency regulation.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 28. Section 2881.3 is added to the Business and Professions Code, to read:

2881.3. (a) The board shall maintain a list of inactive vocational nursing schools and programs seeking board approval.

(b) A vocational nursing school or program seeking board approval shall respond to the board within two weeks of each inquiry or request during all phases. A school or program that does not respond within two weeks, or fails to pay the required fees, shall be designated as inactive.

(c) A vocational nursing school or program seeking board approval that remains on the inactive list for 90 days shall be taken out of consideration for a new program and may only reapply after six months.

SEC. 29. Section 2885 of the Business and Professions Code is amended to read:

2885. It is unlawful for any person or persons not licensed as provided in this chapter to impersonate in any manner or pretend to be a licensed vocational nurse, or to use the title "Licensed Vocational Nurse," the letters "L.V.N.," or any other name, word or symbol in connection with or following the person's name so as to lead another or others to believe that the person is a licensed vocational nurse.

SEC. 30. Section 2886 of the Business and Professions Code is amended to read:

2886. (a) It is unlawful for a person to wilfully make any false representation or to impersonate any other person in connection with any examination or application for a license, or request to be examined or licensed.

(b) It is unlawful for a person to permit or aid any person in any manner to impersonate that person in connection with any examination or application for a license, or request to be examined or licensed.

SEC. 31. Section 2892.5 of the Business and Professions Code is amended to read:

2892.5. (a) Each person renewing a license under the provisions of this chapter shall submit proof satisfactory to the board that, during the preceding two-year period, the person has kept abreast of developments in the vocational nurse field or in any special area of vocational nurse practice, occurring since the issuance of the certificate, or the last renewal thereof, whichever last occurred, either by pursuing courses of continuing education approved by the board in the vocational nurse field or relevant to the practice of that licensee, and approved by the board; or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) This section shall not apply to the first license renewal following the initial issuance of a license.

(d) The board may, in accordance with the intent of this section, make exceptions from continuing education for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

SEC. 32. Section 2895.1 of the Business and Professions Code is amended to read:

2895.1. Notwithstanding any other law, an applicant for license renewal who receives the license after payment by a check or money order that is subsequently returned unpaid, shall not be granted a renewal until the applicant pays the amount outstanding from the returned check or money order, the applicable returned check fee, together with the applicable fee including any delinquency fee for the pending renewal. The board may require each applicant to make payment of all fees by cashier's check.

SEC. 33. Section 4501 of the Business and Professions Code is amended to read:

4501. (a) As used in this chapter, "board" means the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(b) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 34. Section 4502 of the Business and Professions Code is amended to read:

4502. As used in this chapter, "psychiatric technician" means any person who, for compensation or personal profit, implements procedures and techniques that involve understanding of cause and effect and that are used in the care, treatment, and

rehabilitation of mentally ill or emotionally disturbed persons, or persons with intellectual disabilities, and who has one or more of the following:

(a) Direct responsibility for administering or implementing specific therapeutic procedures, techniques, treatments, or medications with the aim of enabling recipients or patients to make optimal use of their therapeutic regime, their social and personal resources, and their residential care.

(b) Direct responsibility for the application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of recipients or patients, for the accurate recording of these symptoms and reactions, and for the carrying out of treatments and medications as prescribed by a licensed physician and surgeon or a psychiatrist.

The psychiatric technician in the performance of these procedures and techniques is responsible to the director of the service in which those duties are performed. The director may be a licensed physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse, or other professional personnel.

Nothing herein shall authorize a licensed psychiatric technician to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition in violation of the law.

SEC. 35. Section 4502.1 of the Business and Professions Code is amended to read:

4502.1. A psychiatric technician, working in a mental health facility or developmental disability facility, when prescribed by a licensed physician and surgeon, may administer medications by hypodermic injection.

SEC. 36. Section 4502.2 of the Business and Professions Code is amended to read:

4502.2. A psychiatric technician, when prescribed by a licensed physician and surgeon, may withdraw blood from a patient with a mental illness or developmental disability if the psychiatric technician has received certification from the board that the psychiatric technician has completed a prescribed course of instruction approved by the board or has demonstrated competence to the satisfaction of the board.

SEC. 37. Section 4502.3 of the Business and Professions Code is amended to read:

4502.3. (a) A psychiatric technician, when prescribed by a licensed physician and surgeon, may perform the following activities on a patient with a mental illness or developmental disability:

(1) Tuberculin, coccidioidin, and histoplasmin skin tests, providing the administration is within the course of a tuberculosis control program.

(2) Immunization techniques, providing the administration is upon the standing orders of a supervising licensed physician and surgeon or pursuant to written guidelines adopted by a hospital or medical group with whom the supervising licensed physician and surgeon is associated.

(b) In performing activities pursuant to subdivision (a), the psychiatric technician shall satisfactorily demonstrate competence in all of the following:

(1) Administering the testing or immunization agents, including knowledge of all indications and contraindications for the administration of the agents.

(2) Recognizing any emergency reactions to the agent that constitute a danger to the health or life of the patient.

(3) Treating those emergency reactions by using procedures, medication, and equipment within the scope of practice of the psychiatric technician.

SEC. 38. Section 4503 of the Business and Professions Code is amended to read:

4503. (a) The board shall administer and enforce the provisions of this chapter.

(b) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 39. Section 4504 of the Business and Professions Code is amended to read:

4504. (a) The board shall prosecute all persons guilty of violating the provisions of this chapter.

(b) The board may employ clerical assistance as it deems necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for those services and may incur other expenses as it may deem necessary.

(c) The board may adopt, amend, or repeal rules and regulations as may be reasonably necessary to carry out the provisions of this chapter. Those rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 40. Section 4510 of the Business and Professions Code is amended to read:

4510. (a) The board shall issue a psychiatric technician's license to each applicant who qualifies and, if required to take it, successfully passes the examination given pursuant to this chapter. The board shall also issue a psychiatric technician's license to each holder of a psychiatric technician license who qualifies for renewal pursuant to this chapter and who applies for renewal.

(b) After the applicant passes the examination and upon receipt by the board of the initial license fee required by subdivision (h) of Section 4548, the board may issue a receipt or temporary certificate that shall serve as a valid permit for the licensee to practice under this chapter.

SEC. 41. Section 4510.2 is added to the Business and Professions Code, to read:

4510.2. (a) Applicants and licensees shall provide the board a physical mailing address.

(b) Applicants and licensees shall provide the board an electronic mail address no later than July 1, 2022. Unless an applicant specifies in writing a preference for regular mail, the board shall direct all license-related correspondence to applicants and licensees using the electronic mail address on file, including, but not limited to, renewal notices and deficiency notices.

(c) The board may annually send an electronic notice to applicants and licensees to confirm their electronic mail address is current.

SEC. 42. Section 4512 of the Business and Professions Code is amended to read:

4512. An applicant for a psychiatric technician's license shall, upon the filing of the application, pay to the board the application fee prescribed by this chapter.

SEC. 43. Section 4516 of the Business and Professions Code is amended to read:

4516. Every person licensed under this chapter may be known as a licensed psychiatric technician and may place the letters P.T. after the licensee's name.

SEC. 44. Section 4521 of the Business and Professions Code is amended to read:

4521. The board may suspend or revoke a license issued under this chapter for any of the following reasons:

(a) Unprofessional conduct, which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2, the record of conviction being conclusive evidence thereof.

(3) The use of advertising relating to psychiatric technician services which violates Section 17500.

(4) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to the licensee or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Section 4022.

(5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the licensee, any other person, or the public or to the extent that the use impairs the ability to conduct with safety to the public the practice authorized by their license.

(6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5), in which event the record of the conviction is conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(7) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5), in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(8) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in paragraph (4).

(b) Procuring a certificate or license by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter.

(e) Giving any false statement or information in connection with an application.

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required by this chapter.

(h) Impersonating another practitioner, or permitting another person to use the licensee's certificate or license.

(i) The use of excessive force upon or the mistreatment or abuse of any patient.

(j) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5 of Division 2.

(k) Failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.

(l) Failure to report the commission of any act prohibited by this section.

(m) The commission of any act punishable as a sexually related crime, if that act is substantially related to the duties and functions of the licensee.

(n) The commission of any act involving dishonesty, when that action is substantially related to the duties and functions of the licensee.

(o) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Dental Examiners, and the Board of Registered Nursing, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 45. Section 4521.2 of the Business and Professions Code is amended to read:

4521.2. (a) If a psychiatric technician has knowledge that another person has committed any act prohibited by Section 4521, the psychiatric technician shall report this information to the board in writing and shall cooperate with the board in furnishing information or assistance as may be required.

(b) Any employer of a psychiatric technician shall report to the board the suspension or termination for cause, or resignation for cause, of any psychiatric technician in their employ. In the case of psychiatric technicians employed by the state, the report shall not be made until after the conclusion of the review process specified in Section 52.6 of Title 2 of the California Code of Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194. The reporting required herein shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (d), and shall not be subject to discovery in civil cases.

(c) An employment agency or nursing registry shall report to the board the rejection from assignment of a licensed psychiatric technician by a health facility or home health care provider due to acts that would be cause for suspension or termination as described in subdivision (d).

(d) For purposes of this section, "suspension, termination, or resignation for cause" or "rejection from assignment" are defined as suspension, termination, or resignation from employment, or rejection from assignment, for any of the following reasons:

- (1) Use of controlled substances or alcohol to such an extent that it impairs the licensee's ability to safely practice as a psychiatric technician.
- (2) Unlawful sale of controlled substances or other prescription items.
- (3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.
- (4) Falsification of medical records.
- (5) Gross negligence or incompetence.
- (6) Theft from patients or clients, other employees, or the employer.

(e) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars (\$10,000) per violation.

(f) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this chapter.

(g) The board shall implement this section contingent upon necessary funding being provided in the annual Budget Act.

(h) For purposes of this section, "employer" includes employment agencies and nursing registries.

SEC. 46. Section 4522 of the Business and Professions Code is amended to read:

4522. (a) Notwithstanding Section 4521 or any other law, the board may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the board shall provide a statement of reasons for the denial that does the following:

- (1) Evaluates evidence of rehabilitation submitted by the applicant, if any.
- (2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.
- (3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a licensed psychiatric technician.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of the applicant's criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 47. Section 4523 of the Business and Professions Code is amended to read:

4523. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a psychiatric technician is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked or may decline to issue a license, when the time for appeal has lapsed, or the judgment or conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw the plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 48. Section 4524 of the Business and Professions Code is amended to read:

4524. (a) A person whose license has been revoked, suspended, surrendered, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the disciplinary order or if any portion of the order is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for the reinstatement of a license that was revoked or surrendered, except that the board may, in its sole discretion, specify in its order a lesser period of time, which shall be no less than one year to petition for reinstatement.

(2) At least two years for the early termination of a probation period of three years or more.

(3) At least one year for the early termination of a probation period of less than three years.

(4) At least one year for the modification of a condition of probation, or for the reinstatement of a license revoked for mental or physical illness.

(b) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that the petitioner is entitled to the relief sought in the petition.

(c) The board itself or the administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(d) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

(e) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(f) Except in those cases where the petitioner has been disciplined for a violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter the provisions of Sections 822 and 823.

SEC. 49. Section 4531.1 is added to the Business and Professions Code, to read:

4531.1. (a) The approval process for a school or program shall be consistent with the following timelines:

(1) (A) Upon receipt of a letter of intent to submit an application for approval as a school or program for psychiatric technicians, the board shall notify the proposed school or program of the steps in the approval process and provide an estimated wait time until active assignment to a nursing education consultant.

(B) Upon active assignment of a nursing education consultant, the school or program shall submit an initial application for approval within 60 days.

(2) (A) Within 30 days of the date the board receives an initial application for approval, the board shall notify the school or program whether the application is complete.

(B) A notice that an initial application is not complete shall specify what additional documents or payment of fees the school or program is required to submit to the board to make the application complete.

(3) Within 60 days from the date the board notifies the school or program that the initial application is not complete, the school or program shall provide the missing information. If a school or program fails to submit the required information, the board shall take the application out of consideration consistent with subdivision (c) of Section 4531.2. The board may provide a school or program with an additional 30 days to complete its application.

(4) Within six months of the date the board receives an initial application for approval as a school or program, the board shall approve the school or program, deny approval, or notify the school or program that corrective action is required.

(b) A school or program for psychiatric technicians seeking approval by the board shall remit to the board for deposit in the Vocational Nursing and Psychiatric Technicians Fund fees in accordance with the following schedule:

(1) The nonrefundable initial application fee shall be in an amount equal to the reasonable costs incurred by the board in reviewing and processing the application up to five thousand dollars (\$5,000).

(2) (A) Except as provided in subparagraph (B), final approval fee shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to fifteen thousand dollars (\$15,000).

(B) The final approval fee for an applicant program that meets the following criteria shall be an amount equal to the reasonable costs incurred by the board in the application approval process up to five thousand dollars (\$5,000):

(i) The program is affiliated with an approved school or program that is in good standing.

(ii) The program utilizes the curriculum and policies approved by the board for the approved school or program.

(3) The continuing approval fee shall in be an amount equal to the reasonable costs incurred by the board in providing oversight and review of a school or program up to five thousand dollars (\$5,000) once every four years.

(c) If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board's reasonable costs associated with that school or program.

(d) The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in state funding that directly leads to a reduction in enrollment capacity. The board shall require a program to provide documentation for the purposes of issuing the fee delay.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the board shall, without taking any further regulatory action, implement, interpret, or make specific this section by means of provider bulletins or similar instructions until emergency regulations are adopted pursuant to paragraph (2). The board shall provide written notice 30 days prior to the adoption of any instruction under this paragraph and post the notice on its internet website. It is the intent of the Legislature that the board have temporary authority as necessary to implement program changes until completion of the regulatory process.

(2) The board shall adopt emergency regulations no later than June 30, 2022. The adoption of regulations shall be deemed an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare within the meaning of Section 11342.545 of the Government Code, and the board need not make a written finding of emergency as required by Section 11346.1 of the Government Code. Notwithstanding subdivisions (e) and (h) of Section 11346.1 of the Government Code, the board may annually readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted pursuant to this section until January 1, 2024.

(3) The initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State. The emergency regulations shall remain in effect for no more than one year from the date any regulation became effective as an emergency regulation.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 50. Section 4531.2 is added to the Business and Professions Code, to read:

4531.2. (a) The board shall maintain a list of inactive schools or programs for psychiatric technicians seeking board approval.

(b) A school or program for psychiatric technicians seeking board approval shall respond to the board within two weeks of each inquiry or request during all phases. A school or program that does not respond within two weeks, or fails to pay the required fees, shall be designated as inactive.

(c) A school or program for psychiatric technicians seeking board approval that remains on the inactive list for 90 days shall be taken out of consideration for a new program and may only reapply after six months.

SEC. 51. Section 4541 of the Business and Professions Code is amended to read:

4541. It is unlawful for any person to use any title or letters that imply that the person is a certified or licensed psychiatric technician unless at the time of so doing the person holds a valid, unexpired, and unrevoked certificate or license issued under this chapter.

SEC. 52. Section 4542 of the Business and Professions Code is amended to read:

4542. (a) It is unlawful for any person willfully to make any false representation or impersonate any other person in connection with any examination or application for a license.

(b) It is unlawful for any person to permit or aid any other person in any manner to impersonate that person in connection with any examination or application for a license.

SEC. 53. Section 4545.3 of the Business and Professions Code is amended to read:

4545.3. A certificate and the holder thereof are subject to this section in the same manner as are a license and the holder thereof.

A license that is not renewed within four years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the holder may apply for and obtain a new license if all of the following apply:

(a) No fact, circumstance, or condition exists that would justify denial of the license under Section 480.

(b) The holder pays all of the fees that would be required if the holder were applying for a license for the first time.

(c) The holder takes and passes the examination, if any, which would be required if the holder were applying for the license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, the holder is qualified to perform the services described in Section 4502.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.