



1625 North Market Blvd.  
Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
TDD (916) 332-1700  
Fax (916) 574-8625  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

## MEETING NOTICE December 19, 2008

Department of Consumer Affairs  
1625 N. Market Blvd  
El Dorado Room  
Sacramento, CA 95834  
(916) 574-7830

### By Teleconference From:

1615 E. 17th Street, Suite 100  
Santa Ana, CA 92705

415 Karla Court  
Novato, CA 94949

1304 W. Center  
Visalia, CA 93291

10800 E. Benavon Street  
Whittier, CA 92821

16133 Ventura Blvd  
Suite 1235  
Encino, CA 91436

**Friday, December 19**  
**2:00 p.m.**

### **FULL BOARD OPEN SESSION** - Call to Order & Establishment of a Quorum

- I. Introductions
- II. Discussion and Possible Action to Initiate a Rulemaking to Add and Amend Sections of Division 18, of Title 16, of the California Code of Regulations Regarding the Mandatory Submission of Fingerprints for Board Licensees and Registrants
- III. Public Comment for Items Not on the Agenda
- IV. Suggestions for Future Agenda Items

### **FULL BOARD CLOSED SESSION**

- V. Pursuant to Government Code section 11126(e), the Board will convene in closed session to confer with and receive legal advice from counsel (*Ventimiglia v. Board of Behavioral Sciences*)



Arnold Schwarzenegger  
Governor  
State of California  
State and Consumer  
Services Agency  
Department of  
Consumer Affairs

*Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.*

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT [www.bbs.ca.gov](http://www.bbs.ca.gov)

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834, or by phone at (916) 574-7835, no later than one week prior to the meeting. If you have any questions, please contact the Board at (916) 574-7830.

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
www.bbs.ca.gov

**To:** Board Members

**Date:** December 15, 2008

**From:** Tracy Rhine  
Legislative Analyst

**Telephone:** (916) 574-7847

**Subject:** **Fingerprint Requirements**

---

### Recommendation

Direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a hearing.

### Discussion

The Board discussed the issue of retroactively fingerprinting licensees at its November 19, 2008 meeting, at which time the Board voted to support, or sponsor if necessary, legislation to require all Board licensees and registrants to submit fingerprints. The Department of Consumer Affairs has provided proposed legislative language they may sponsor in 2009.

On November 24, 2008 an emergency rulemaking set forth by the Board of Registered Nursing (BRN) related to mandatory fingerprint submission was approved by the Office of Administrative law. This proposal allows BRN to require all licensees not previously fingerprinted, to submit fingerprints upon licensure renewal.

Staff has attached for the Board's review proposed regulatory language that would allow the Board of Behavioral Sciences to require all licensees not previously fingerprinted, or for whom a record of fingerprints no longer exists, to submit fingerprints to the Board before his or her next renewal, beginning October 31, 2009.

Due to the urgent nature of this issue, staff recommends that the Board discuss proceeding with the proposed attached rulemaking to allow the Board to require the submission of fingerprints from all licensees and registrants.

### Attachment

Proposed regulatory language

***Blank Page***

## **§1815 FINGERPRINT SUBMISSION**

(a) All licensees and registrants who have not previously submitted fingerprints as a condition of licensure or registration or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date that occurs on or after October 31, 2009, or as directed by the board.

(b) Failure of a licensee or registrant to comply with subdivision (a) is grounds for disciplinary action by the board against the license or registration.

(c) Licensees and registrants shall retain, for at least three years, as evidence of their having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those licensees or registrants who did not use an electronic fingerprinting system, a receipt evidencing that the licensee's or registrant's fingerprints were taken.

(d) Licensees and registrants shall pay, as directed by the Board, the actual cost of compliance with subdivision (a).

(e) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a).

(f) The board may waive the requirements of this section for licensees or registrants who are actively serving in the United States military. The board may not return a license or registration to active status until the licensee or registrant has complied with subdivision (a).

Note: Authority cited: Sections 4990.16, 4990.18, 4990.20 and 4996.6, Business and Professions Code. Reference: Sections 4982(a), 4989.54(a), 4992.3(a), and 4996.6, Business and Professions Code; and Sections 11105(b)(10), and 11105(e), Penal Code.

## **§1886.40. AMOUNT OF FINES**

(a) For purposes of this section, a "citable offense" is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13 and 14 of Division Two of the Business and Professions Code and Title 16, Division 18, California Code of Regulations.

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

(1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.

(2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.

(3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.

(4) The citation involves unlicensed practice.

(5) The citation involves an unlawful or unauthorized breach of confidentiality.

(6) The citation is for failure to submit fingerprints to the Department of Justice as required by the Board.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, ~~4987~~ and 4990.14, Business and Professions Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, ~~4986.10, 4986.50, 4986.70~~, 4987.7, 4987.8, ~~4987.9~~, 4988, 4988.1, ~~4988.5~~, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9, 4996.16, 4996.18, 4996.19, 4996.20, 4998.2, 4998.3, 4998.4, Business and Professions Code; and Section 15630, Welfare and Institutions Code.