

BOARD OF BEHAVIORAL SCIENCES
Regulation Changes Effective June 19, 2009

Amendments are to Title 16, California Code of Regulations Sections 1815 and 1886.40
Mandatory Fingerprint Submission

Changes to the original language are shown by underline for new text and strikethrough for deleted text.

Mandatory fingerprint Submission

Section 1815 - Explanation: This proposal does the following:

- Requires 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 (DOJ's) criminal offender record identification database, to submit fingerprints to DOJ by the licensee's or registrant's renewal date that occurs on or after October 31, 2009. This fingerprint submission requirement also applies to individuals who petition the board for reinstatement of their license or registration.
- Requires licensees and registrants to retain evidence of submitting fingerprints to DOJ for at least three years.
- Makes failure to comply with the fingerprint submission requirement a violation of BBS' laws and grounds for disciplinary action by the Board.

Section 1886.40 - Explanation: This proposal does the following:

- Allows the Executive Officer of the Board to assess a fine of not more than \$5,000 for failure to submit fingerprints to DOJ. .

Adopt 16 CCR Section 1815 as follows:

§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.

(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 the actual costs for furnishing the fingerprints and conducting the searches in 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.

Amend 16 CCR Section 1886.40 as follows:

§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, ~~4986.40, 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, and 4998.4, Business and Professions Code; and Section 15630, Welfare and Institutions Code.