



Board Meeting
June 20-21, 2013

Agenda Item 12(b)

Update Regarding Proposed Amendments to Title 16, CCR Section 1397.12 –
Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

Background:

The Board approved the attached draft language and directed staff to notice this proposal for a regulatory hearing. In preparation of this rulemaking file, the following issues have been identified and staff is asking the Board to re-consider proposed language that could have unintended consequences.

Additionally, there are a few other amendments, referenced below, that staff is requesting be included within the Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees document to provide further clarification.

- Uniform Standards 3, 11, 12 & 16 to be incorporated into the Disciplinary Guidelines. Staff is recommending that these standards be included and that the proposed Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees be reorganized to include the Uniform Standards at the end of the document instead of at the beginning as the current draft is written.
- In the Penalty Guidelines section, Business and Professions Code Section 2960 includes reference to the examination(s) that needs to be cleaned up. The California Psychology Supplemental Examination (CPSE) should be stricken and the California Psychology Law and Ethics Examination (CPLEE) reference needs to be added to subsections a, d, f and h.
- In regards to Uniform Standard #8, there is still some confusion regarding Cease Practice Orders. Uniform standard #8 (items 1-3) need to be contained within the guidelines. The draft guidelines do not specify this information. Additionally the proposed language should be amended to read, "The Board shall also notify the licensee's employer and worksite monitor, if any, that the licensee has been ordered to cease practice, and.... "

Board of Psychology
Proposed Language

Proposed changes are shown by underlining for new text and ~~strikethrough~~ for deleted text.

DISCIPLINARY GUIDELINES AND UNIFORM
STANDARDS RELATED TO SUBSTANCE ABUSE

Section 1397.12 of Division 13.1 of Title 16 of the California Code of Regulations is renumbered as section 1395.2 to now be included in Article 7, Standards Related to Denial, Discipline, and Reinstatement of Licenses or Registrations, and is amended to read as follows:

§ 1397.12. § 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Psychology shall consider the disciplinary guidelines entitled and apply the Disciplinary Guidelines and "Uniform Standards Related to Substance Abusing Licensees," as amended 2/07" (June 2012) which are hereby incorporated by reference. The Board shall also apply as required the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards describe the mandatory conditions that apply to a substance abusing licensee, except that the Board may impose more restrictive conditions if necessary to protect the public.

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption at the time of administrative hearing, in addition to any and all relevant terms and conditions contained in the Disciplinary Guidelines, the Uniform Standards Related to Substance Abusing Licensees for a substance abusing licensee shall apply as written and be used in the order placing the license on probation.

(c) Deviation from these Disciplinary Guidelines and orders, including the standard terms of probation, is appropriate where the Board of Psychology in its sole discretion determines that the facts of the particular case warrant such a deviation; -for example: the presence of mitigating or aggravating factors; the age of the case; or evidentiary problems issues.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e), Government Code.