

Title 16. Board of Psychology

Proposed new text is shown as underlined. Proposed deleted text is shown struck-through.

1. Amend Section 1394 of Article 7 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§ 1394. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to section 141 or Division 1.5 (commencing with Section 475) of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or registration under the Psychology Licensing Law (Chapter 6.6 of Division 2 of the Code), if to a substantial degree it evidences present or potential unfitness of a person holding a license or registration to perform the functions authorized by his or her the license or registration, or in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include but not be limited to those involving the following:~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of a licensee or registrant.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- ~~(a)~~(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of that law the Psychology Licensing Law.
- ~~(b)~~(2) Conviction of a crime or act involving fiscal dishonesty.
- (3) Conviction or act involving child abuse.
- (4) A conviction requiring a person to register as a sex offender pursuant to section 290 of the Penal Code.
- (5) Conviction or act involving lewd conduct or sexual impropriety.
- (6) Conviction or act involving assault, battery, or other violence.
- (7) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.
- (8) Conviction or act involving harassment, trespass, or stalking.

Note: Authority cited: Sections 481, ~~493~~, and 2930, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 2960, and 2963, and 2964.3 Business and Professions Code.

2. Amend Section 1395 of Article 7 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§ 1395. Rehabilitation Criteria for Denials and Reinstatements.

When considering the denial of a license or registration under section 480 of the Code, or a petition for reinstatement or modification of penalty under section ~~41522 of the Government Code~~ 2962 of the Code, the Board ~~in~~ will evaluate ~~ing whether the applicant or petitioner has made a showing of rehabilitation of the applicant and his or her~~ whether the applicant or petitioner has made a showing of rehabilitation of the applicant and his or her has established present eligibility fitness for a license or registration.

(a) Where the denial is, or the surrender or revocation was, in part on the ground(s) that the applicant or petitioner was convicted of a crime, the Board shall consider whether the applicant or petitioner made a showing of rehabilitation if the person completed the criminal sentence without a violation of parole or probation. In making this determination, the Board shall use~~will consider~~ the following criteria in (1) through (5), as available. If there is a violation of parole or probation, or no showing of rehabilitation based on these criteria, the Board shall evaluate rehabilitation under subdivision (b).

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) The reason for granting and the length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's or petitioner's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) Where the denial is not or the surrender or revocation was not based on a conviction, or the Board determines that the applicant or petitioner did not make a showing of rehabilitation based on subdivision (a), the Board shall apply the following criteria in evaluating an applicant's or petitioner's rehabilitation:

~~(2)~~(1) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as that are grounds for denial, or that were grounds for surrender or revocation, which also could be considered as grounds for denial under section 480 of the Code, and the time that has elapsed between them.

~~(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).~~

~~(4)~~(2) The extent to which the applicant or petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or petitioner.

(3) The criteria in subdivision (a)(1)-(5), as applicable.

~~(5)~~(4) Evidence, if any, of rehabilitation submitted by the applicant or petitioner demonstrating that he or she has a mature, measured appreciation of the gravity of the misconduct, and remorse for the harm caused, and showing a course of conduct that convinces and assures the Board that the public will be safe if the person is permitted to be licensed or registered to practice psychology.

Note: Authority cited: Sections 482 and 2930, Business and Professions Code. Reference: Sections 480, 482, 2960, 2962 and 2963, Business and Professions Code.

3. Amend Section 1395.1 of Article 7 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§ 1395.1. Rehabilitation Criteria for Suspensions or Revocations.

When considering the suspension or revocation of a license or registration ~~on the ground that~~ of a person holding a license or registration under the Psychology Licensing Law (chapter 6.6 of division 2 of the Code) ~~has been convicted of a crime,~~ the Board ~~in will~~ will evaluate whether the licensee or registrant has made a showing of the rehabilitation of such person and his or her eligibility and is presently fit for a license or registration.

(a) Where the basis for discipline is the conviction of a crime, the Board shall consider whether the licensee or registrant has made a showing of rehabilitation if the person completed the criminal sentence without a violation of parole or probation. In making this determination, the Board shall use ~~will consider~~ the following criteria in (1) through (5), as available. If there is a violation of parole or probation or no showing of rehabilitation based on these criteria, the Board shall evaluate rehabilitation under subdivision (b).

(1) Nature and severity of the ~~act(s) or offense(s)~~ crime(s).

(2) The reason for granting and the length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's or registrant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) Where the basis for discipline is not based on a conviction, or the Board determines that the licensee or registrant did not make a showing of rehabilitation based on subdivision (a), the Board shall apply the following criteria in evaluating the licensee's or registrant's rehabilitation:

~~(2)~~(1) Total criminal record and/or record of discipline or other enforcement action.

~~(3)~~(2) The time that has elapsed since commission of the act(s) or ~~offense(s)~~ crime(s).

~~(4)~~(3) Whether the licensee or ~~registration holder~~ registrant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

~~(5)~~(4) If applicable, evidence of ~~expungement~~ dismissal proceedings pursuant to section 1203.4 of the Penal Code.

~~(6)~~(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) Evidence, if any, of rehabilitation submitted by the licensee or ~~registration holder~~ registrant demonstrating that he or she has a mature, measured appreciation of the gravity of the misconduct, and remorse for the harm caused, and showing a demonstrated course of conduct by the licensee or registrant that convinces and assures the Board that the public will be safe if the person is permitted to remain licensed or registered to practice psychology.

Note: Authority cited: Sections 482 and 2930, Business and Professions Code. Reference: Sections 482, 2960 and 2963, Business and Professions Code.