



DATE	August 22, 2023
TO	Board Members
FROM	Elaine Yamaguchi Executive Officer
SUBJECT	Agenda Item 9.B.III: Consideration of Changes to Previously Approved Text and Initiation of a Rulemaking to Amend Title 16 CCR sections 2524 and 2579.10 (Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees)

Background

On Thursday, May 18, 2023, this Board voted to initiate a rulemaking to amend Sections 2524 and 2579.10, California Code of Regulations, title 16 (CCR), and the form incorporated by reference in those sections entitled “Disciplinary Guidelines and Uniform Standards Related to Substance Abuse” (Rev. 6/20/11) (Guidelines). The Board’s existing Guidelines’ optional term for abstention from controlled substances reads as follows:

21. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of the Business and Professions Code, **except when lawfully prescribed** by a licensed practitioner for a bona fide illness. (Emphasis added.)

The Board voted to approve proposed changes to the abstention term at its May 18, 2023 meeting as follows (as shown in underline and strikeout):

21. ABSTAIN FROM CONTROLLED SUBSTANCES AND ALCOHOL

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Business and Professions Code Sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed, ordered, or recommended by a licensed practitioner for a bona fide illness.

By the effective date of this decision, and thereafter within 15 days of the date

of being prescribed or recommended a dangerous drug or controlled substance, Respondent shall provide documentation of lawfully prescribed, ordered, **or recommended** drugs. "Documentation" shall include a written copy of the prescription or **medical marijuana recommendation to the Board** or its designee by mail, email, facsimile or in-person at the Board's offices.

Respondent shall completely abstain from the use of alcoholic beverages and products containing alcohol, including over the counter medications, foods containing alcohol, mouthwashes, "non-alcoholic" beers, and fermented beverages.

[**Note:** If this term is included in the probationary order, then Term No. 22 "Submit to Drug and Alcohol Testing" must also be included to ensure abstention occurs in compliance with this condition of probation.]

(Emphasis added.)

Policy Issue and Committee Action

At the request of the Board's Regulations Counsel, this proposal is being returned for reconsideration of the proposed changes highlighted above that would allow probationers to use medical or medicinal marijuana under recommendation by a licensed health care practitioner provided they submit documentation of that recommendation to the Board. Concerns were raised that the Board may have not had adequate time to review and deliberate on this issue and determine whether any additional requirements should be imposed.

These issues were discussed generally at the Board's Enforcement Committee meeting on August 1, 2023. At that time, the Committee members asked staff and Regulations Counsel to research whether any other Department of Consumer Affairs (DCA) state boards have addressed this issue in their Disciplinary Guidelines or regulations, and whether any other state nursing boards currently have addressed the issue of permitting probationers to take marijuana while on probation. The results of that research follow.

Staff Research

In response to the Committee's request, Enforcement Manager Antoinette Wood surveyed other state boards of nursing using the following questions:

The BVNPT is considering a regulatory proposal to establish whether or not licensees on probation, who have been ordered to abstain from the use of drugs or alcohol as part of probation, should be allowed to use marijuana upon the

recommendation of a physician (“medicinal marijuana”) while that person is on probation for violations establishing a substance abuse problem or drug or alcohol violation.

Please answer the following questions:

- What state/board are you from
- Does your state allow the use of medicinal marijuana? If so, under what conditions? Please also provide the specific legal citation to the law in your state that governs this.
- Do you allow probationers who have drug and alcohol prohibitions to use medicinal marijuana?

If you do, under what conditions do you allow it (e.g., documentation of physician recommendation and recovery plan to limit use while treating patients). Please also provide the specific legal citation to the regulations or law you use to govern this, if any.)

The responses to the survey question noted above are attached to this memo as Attachment “A”. The Board received 17 responses to the survey of which 6 boards indicated that they allow medicinal or medical marijuana use with conditions. One noteworthy response from the Missouri State Board of Nursing requires all probation agreements to include the following text:

If Respondent experiences a condition that qualifies for a medical marijuana card, Respondent shall provide a copy of this Order to the qualifying physician. The qualifying physician is required to be Respondent’s primary care physician. The qualifying physician shall provide a letter verifying that Respondent is safe to practice as a nurse while on/taking medical marijuana. This documentation will be required from the physician at least quarterly, according to the documentation schedule which will be set by the Board. All submissions of documentation to the Board shall be the responsibility of Respondent.

Regulations Counsel Report

Regulations Counsel reports that she could find no law or regulation in any state, or any DCA healing arts boards’ guidelines that directly addresses this issue. However, many other healing arts boards have abstention terms in their Guidelines that include coordinating physician and reporting requirements whenever a licensee has received a “prescription” for a controlled substance for a bona fide illness or condition (See Attachment “B”).

Regulations Counsel also could find no law or regulation that compels the Board to either prohibit or allow use of medicinal marijuana while a licensee is on probation with the Board for a substance abuse disorder or drug-related offense. Regulations Counsel provides the following information for Board discussion:

- (1) Marijuana is a controlled substance that cannot be “lawfully prescribed” under current federal law. (Comprehensive Drug Abuse Prevention and Control Act of 1970, §§ 202, 404(a), 21 U.S.C.A. §§ 812, 844(a); Gov. Code, § 8351, subd. (c).) See also the California Supreme Court’s determination in *Ross v. RagingWire Telecommunications, Inc.* (2008) 42 Cal.4th 920, 926 where the Court states:

“Plaintiff’s position might have merit if the Compassionate Use Act gave marijuana the same status as any legal prescription drug. But the act’s effect is not so broad. No state law could completely legalize marijuana for medical purposes because the drug remains illegal under federal law...”

- (2) California’s Compassionate Use Act at Health and Safety Code section 11362.5 authorizes the following

“(c) Notwithstanding any other provision of law, **no physician** in this state **shall be punished, or denied any right or privilege, for having recommended marijuana** to a patient for medical purposes.

(d) **Section 11357**, relating to the possession of marijuana, **and Section 11358**, relating to the cultivation of marijuana, **shall not apply to a patient, or to a patient’s primary caregiver**, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.” (Emphasis added – these sections refer to the Health and Safety Code, which criminalizes such conduct.)

- (3) The Compassionate Use Act does not address the use of marijuana while a licensee is on probation for a drug-related offense or substance abuse disorder with a licensing agency, but rather, as the California Supreme Court has noted, “the Act’s operative provisions speak exclusively to the criminal law.” (*Ross v. RagingWire Telecommunications, Inc.* (2008) 42 Cal.4th 920, 928.)

- (4) However, even in criminal cases, California courts have upheld abstention requirements for marijuana when on criminal probation provided there is a sufficient nexus between the probation condition and the defendant’s offenses or future criminality. (*People v. Leal* (2012) 210 Cal.App.4th 829, 840; *People v. Hughes* (2012) 202 C.A.4th 1473, 1479.)

- (5) The Compassionate Use Act at Health and Safety Code section 11362.5(b)(2), provides that:

“Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.”

- (6) The Board’s laws contain various provisions that prohibit licensees from using any controlled substance in a manner dangerous to 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.” (Bus. & Prof. Code, §§ 2878.5(b) and 4521(a)(5)).

Discussion

As the foregoing issues were not raised or discussed with the Board at the May 18, 2023 meeting, staff recommends that the Board consider the following:

- A. Does the Board wish to revise its existing Guidelines to allow the use of medicinal marijuana for probationers who are on probation for a substance use disorder or drug-related offenses?
- B. If so, should the Board place any conditions on such use while on probation for the protection of the public?

Regulations Counsel has prepared options for revising the currently proposed abstention term if the Board is interested in discussing options for restricting or allowing use of medicinal marijuana while a licensee is on probation at Attachment “F”.

Staff and Regulations Counsel will be available at the meeting to answer any questions the Board may have on this item.

Action Requested:

The Board should review the proposed regulatory text at Attachments D and E and consider a motion to determine which way the Disciplinary Guidelines should be amended. After review, the staff requests that the Board consider the following motion:

Approve the proposed regulatory text for Sections 2524 and 2579.10 and incorporated guidelines as provided in Attachments D and E, but replace the proposed text in the “Abstain from Controlled Substances and Alcohol” Term with the text described in Option (insert **Option No. 1 or 2**) in Attachment “F” (or insert other alternative text if the members disagree with the options presented).

In addition, submit the approved text as amended to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the text and the package, and set the matter for a hearing if requested. If after the 45-day public comment period, no adverse comments are received, and no public hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking, and adopt the proposed regulations as noticed for 16 CCR sections 2524 and 2579.10.

Attachments

- (A) Table of Other State Boards' Responses to BVNPT Survey for Medicinal Marijuana Use While on Probation
- (B) Examples of Abstention Terms from other DCA Healing Arts Boards Disciplinary Guidelines
- (C) Compassionate Use Act of 1996 -- Health & Safety Code section 11362.5
- (D) Proposed Regulatory Text to Update Title 16, California Code of Regulations Sections 2524 and 2579.10.
- (E) Document incorporated by reference: "Disciplinary Guidelines and Uniform Standards ~~Related to~~ Regarding Substance-~~Abuse~~ing Licensees" (Rev. ~~June 2014~~ OAL insert effective date).
- (F) Options for revising the Guidelines' Optional Term No. 21 "Abstain from Controlled Substances and Alcohol"

Responding State Board	Response to Survey
Wyoming Member Board	Wyoming no
West Virginia - RN Member Board	<p>Nurses are not prohibited from receiving a cannabis certification from a healthcare practitioner and possession of a valid identification card issued by the Bureau for Public Health within the West Virginia Department of Health and Human Resources under 16A-1-1 simply by virtue of their profession, however a nurse who is considering a cannabis certification may be subject to certain restrictions and prohibitions under the act. First, a nurse should note that under Â§ 16A-5-10 "Prohibitions": The following prohibitions shall apply: (4) A patient (for the purpose of this discussion "patient"; means the nurse who has a cannabis certification) may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient. Also, under Â§ 16A-12-9 "Other restrictions" This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following: (1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct. (2) Possessing or using medical cannabis in a state correctional facility or Regional Jail Authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the Regional Jail Authority, which houses inmates serving a portion of their sentences on parole or other community correction programs. (3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure state-owned facility or unit utilized for sexually violent delinquent children. Furthermore, pursuant to WV Code 30-7-1 et seq. and Series 19 of the WV Code of Legislative Rules, registered nurses are responsible and accountable for making decisions that are based upon the individual's educational preparation and current clinical competence in registered nursing. The scope of practice and delegation booklet for licensed nurses is located under the law/scope tab on the WV RN Board website. The decision-making model to determine any task, skill or activity is located on page 12. Follow written agency policy, procedure and protocols consistent with the definition of registered nursing practice in WV Code 30-7-1 et. seq. This is not intended to be an all-inclusive list of concerns, nor should this article be construed as legal advice. Any nurse or nursing student who is considering a cannabis certification should read the entire WV Medical Cannabis Act (https://code.wvlegislature.gov/16A/) and, if necessary, consult with an attorney.</p>
Kansas Member Board	KSBN, No, NA, No, NA.

Responding State Board	Response to Survey
Missouri Member Board	Missouri. Does your state allow the use of medicinal marijuana ? Yes. If so, under what conditions? Below is what we put in orders and Settlement agreements: If Licensee experiences a condition that qualifies for a medical marijuana card,Licensee shall provide a copy of this Agreement to the qualifying physician. Thequalifying physician is required to be Licensee's primary care physician. The qualifying physician shall provide a letter verifying that Licensee is safe to practice as a nurse while on/taking medical marijuana. This documentation will be required from the physician at least quarterly, according to the documentation schedule which will be set by the Board. All submissions of documentation to theBoard shall be the responsibility of Licensee. Please also provide the specific legal citation to the law in your state that governs this. NA our state allows medical marij and recreational. Do you allow probationers who have drug and alcohol prohibitions to use medicinal marijuana? If you do, under what conditions do you allow it (e.g., documentation of physician recommendation and recovery plan to limit use while treating patients). See paragraph above. Please also provide the specific legal citation to the regulations or law you use to govern this, if any.) NA Board decision due to state law allows medical and recreational marij
Nevada Member Board	Yes, in Nevada, the person may use medical marijuana. The licensee/probationer must have the state medical registry card from a medical provider. This is a board policy for use while on probation, and we do not have a legal citation for it. Thank you,
Tennessee Member Board	Marijuana is not legal in TN for recreational or medical purposes.
Idaho Member Board	Idaho - Medicinal marijuana is not legal in the state of Idaho.
Maryland Member Board	What state/board are you from: Maryland. Does your state allow the use of medicinal marijuana ? Yes, its allowed if it was prescribed by their healthcare provider and they have an active medical card. If so, under what conditions? see above. Please also provide the specific legal citation to the law in your state that governs this. Nothing in writing, at this time. Since the law has recently changed in our state, we will [work]with our legal team to provide our licensee's with more details. Do you allow probationers who have drug and alcohol prohibitions to use medicinal marijuana? Still under review. At this time, if they have a prescription and an medical card, we take that into consideration. *If you do, under what conditions do you allow it (e.g., documentation of physician recommendation and recovery plan to limit use while treating patients). Please also provide the specific legal citation to the regulations or law you use to govern this, if any.) *under progress.
Guam Member Board	We do not at this time.
Washington Member Board	Washington State Board of Nursing. Yes, Washington state allows medical use of cannabis as authorized by a licensed provider with prescriptive authority. RCW 69.51A.Yes, we allow use of medical cannabis by nurses in our SUD monitoring program only if authorized by a licensed provider with prescriptive authority. Must have medical cannabis card issued by provider. Can use medical cannabis as authorized by medical provider but cannot be under the influence while engaged in patient care.

Responding State Board	Response to Survey
Northern Mariana Islands	The Northern Mariana Islands allows recreational marijuana use. The law for the state says that anyone working is not allowed to be using marijuana. For the NMI BON we don't have a law regarding anyone on probation using marijuana yet.
Nebraska	
Iowa	Iowa Board of Nursing. We allow it if they show proof of a medical marijuana card. I think you have to allow it unfortunately because you risk huge civil liability if you overreach as a licensing Board by overriding a Physician authorization. We do not have the ability to override a person's personal physician's treatment recommendation. I have no codes to cite.
Oregon	Oregon has the Oregon Medical Marijuana Program (OMMP) https://www.oregon.gov/oha/ph/diseasesconditions/chronicdisease/medicalmarijuanaprogram/pages/index.aspx Marijuana, medical or otherwise is not allowed while on probation.
Georgia	1 - Georgia. 2 - Yes, O.C.G.A. Â§ 16-12-200 through O.C.G.A. Â§ 16-12-236, Rules - CHAPTER 3513 - No
Hawaii	Hawaii. If you asking if Hawaii NPA allows licensed nurses to use medical marijuana, the answer is no, marijuana still considered a schedule 1 CS.
West Virginia (State Board of Examiners for Licensed Practical Nurses)	WV-PN, Yes our state does allow medical marijuana, They can have a card, but can't test positive, No we do not allow them to use it as it is still federally illegal

Abstention Terms from DCA Healing Arts Boards' Disciplinary Guidelines (available online)

Board of Chiropractic Examiners:

Drugs - Abstain From Use

Respondent shall abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, unless prescribed by a medical practitioner for a bona fide illness.

Dental Board California:

ABSTAIN FROM USE OF ALCOHOL, CONTROLLED SUBSTANCES AND DANGEROUS DRUGS - Respondent shall abstain completely from the possession, injection, or consumption of any route, including inhalation, of all psychotropic (mood altering) drugs, including alcohol, and including controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drug as defined by Business and Professions Code Section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed by a physician and surgeon, dentist, or nurse practitioner for a bona fide illness or condition.

Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number, and specific medical purpose for medication. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the Board with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of Respondent's history of substance abuse and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, psychotropic or mood altering drugs. Once a Board-approved physician and surgeon has been identified Respondent shall provide a copy of the accusation and decision to the physician and surgeon. The coordinating physician and surgeon shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of such substances.

The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon.

If Respondent has a positive drug screen for any substance not legally authorized, and the Board files a petition to revoke probation or an accusation, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

RATIONALE: Abstinence from mood altering substances (alcohol/drugs) is necessary for compliance with the Board's Probation Program and to ensure successful rehabilitation. Abstinence from any psychotropic drug is required to prevent the substitution of one addicting substance with another.

Medical Board of California

Controlled Substances - Abstain From Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number. If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay.

Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period. If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

Speech-Language Pathology, Audiology and Hearing Aid Dispensers

ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness

Occupational Therapy

Abstain from Controlled Substances

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections

4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness or condition. If under such prescription, Respondent shall cause to have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Physical Therapy Board

Abstain from Use of Controlled Substances and Dangerous Drugs

Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation, of all controlled substances as defined in the California Uniform Controlled Substances Act. This prohibition does not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a practitioner licensed to prescribe such medications.

Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the substance abuse rehabilitation program, in writing, of the following: prescriber's name, address, and telephone number; medication name and strength; and issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted to the Board's Probation Monitor, or its designee. Respondent shall provide the Board's Probation Monitor, or its designee, with a signed and dated medical release covering the entire probation period. Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of Respondent's history of substance abuse and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs, and controlled substances. Once a Board-approved physician and surgeon has been identified, Respondent shall provide a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order, as appropriate, to the coordinating physician and surgeon. The coordinating physician and surgeon shall report to the Board or its designee on a quarterly basis Respondent's compliance with this condition.

The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon. If Respondent has a positive drug screen for any substance not legally authorized, Respondent shall be contacted and instructed to leave work and ordered, by the Board, to cease any practice and may not practice unless and until notified by the Board. The Board will notify Respondent's employer, if any, and Worksite Monitor, if any, that Respondent may not practice.

If the Board files a petition to revoke probation or an accusation based upon the positive drug screen, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

[Optional language: This condition may be waived or modified by the Board's Probation Monitor or its designee upon a written finding by the Clinical Diagnostic Evaluator that Respondent is not a substance abusing licensee.]

California Board of Registered Nursing

ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS –

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

RATIONALE: Abstinence from mood altering substances (alcohol/drugs) is necessary for compliance with the Board's Probation Program and to ensure successful rehabilitation. Abstinence from any psychotropic drug is required to prevent the substitution of one addicting substance with another.

Board of Psychology

Abstain from Drugs and Alcohol and Submit to Tests and Samples

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, or any drugs requiring a prescription unless respondent provides the Board or its designee with documentation from the prescribing health professional that the prescription was legitimately issued and is a necessary part of the treatment of respondent.

Respondent shall abstain completely from the intake of alcohol. Respondent shall undergo random and directed biological fluid or specimen testing as determined by the Board or its designee. Respondent shall be subject to [a minimum of fifty-two (52)] random tests [per year within the first year of probation, and a minimum of thirty-six (36) random tests per year thereafter,] for the duration of the probationary term.

Testing Frequency Schedule:

Level Segments of Probation Minimum Range of Number of Random

Tests

I Year 1 52-104 per year

II Year 2+ 36-104 per year

After 5 years, administration of one (1) time per month if there have been no positive drug tests in the previous five (5) consecutive years of probation. Nothing precludes the Board from increasing the number of random tests for any reason. Any confirmed positive finding will be considered a violation of probation. Respondent shall pay all costs associated with such testing. If respondent tests positive for a banned substance, respondent shall be ordered by the Board to immediately cease any practice of psychology, and may not practice unless and until notified by the Board. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to alcohol and/or drug testing. Respondent shall submit to his or her alcohol and/or drug test on the same day that he or she is notified that a test is required. All alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

Drugs - Exception for Personal Illness

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a licensed health care professional. Respondent shall provide the Board or its designee with written documentation from the treating licensed health care professional who prescribed medication(s). The documentation shall identify the medication, dosage, number of refills, if any; the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

RATIONALE and APPLICATION OF UNIFORM STANDARD #s 4 and 8: This condition provides documentation that the probationer is substance or chemical free. It also provides the Board with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances. The Board will consider the following factors in making an exception to the testing frequency:

PREVIOUS TESTING/SOBRIETY: In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing prior to being subject to testing by the Board, the Board may give consideration to that testing in altering the testing frequency schedule so that it is equivalent to this standard.

VIOLATION(S) OUTSIDE OF EMPLOYMENT: An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.

SUBSTANCE USE DISORDER NOT DIAGNOSED: In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the Board, but not to be less than 24 times per year.

The term is mandatory in cases where the Uniform Standards Related to a Substance Abusing Licensee apply. Where the Uniform Standards do not apply, where relevant, the respondent should be ordered to submit to random and directed testing, but need not be ordered to submit to the minimum of random tests.

Optometry Board

Respondent shall abstain completely from the use or possession of alcohol, any and all other mood altering drugs or substances, and their associated paraphernalia. Respondent shall identify for the Board, a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, or mood altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis.

Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

The quarterly report shall include, but not be limited to:

1.the Respondent's name; 2. license number; 3. physician, nurse practitioner, or physician assistant's name and signature; 4. physician, nurse practitioner, or physician assistant's license number; 5. dates Respondent had face-to-face contact or correspondence (written and verbal) with physician, nurse practitioner, or physician assistant; 6. the Respondent's compliance with this condition; 7. if any substances have been prescribed, identification of a program for the time-limited use of any substances; 8. any change in behavior and/or personal habits; 9. assessment of the Respondent's ability to practice safely; 10. recommendation dependant on Respondent's progress and compliance with this condition on whether to continue with current prescription plan and/or treatment, modify plan and/or treatment, or require Respondent to cease practice; 11. other relevant information deemed necessary by the physician, nurse practitioner, physician, or the Board.

Respondent is ultimately responsible for ensuring his/her physician, nurse practitioner or physician assistant submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation. The Board may require a single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board. Respondent shall ensure that he/she is not in the presence of or in the same physical location as individuals who are using

illegal substances, even if Respondent is not personally ingesting the drug(s). Any positive result that registers over the established laboratory cut off level shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's optometric license. Respondent also understands and agrees that any positive result that registers over the established laboratory cut off level shall be reported to each of Respondent's employers.

Physician Assistant Board

23. Abstain from the Use of Controlled Substances and Dangerous Drugs

Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation of all controlled substances as defined in the California Uniform, Controlled Substances Act. This prohibition does not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a practitioner licensed to prescribe such medications. Within fifteen (15) calendar days of receiving any lawful prescription medications, respondent shall notify the recovery program in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of respondent's history of substance abuse and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, and controlled substances. Once a Board-approved physician and surgeon has been identified, respondent shall provide a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order to the physician and surgeon. The coordinating physician and surgeon shall report to the Board or its designee on a quarterly basis respondent's compliance with this condition. The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon.

If Respondent has a positive drug screen for any substance not legally authorized, respondent shall be contacted and instructed to leave work and ordered by the Board to cease any practice and may not practice unless and until notified by the Board. The Board will notify respondent's employer, if any, and worksite monitor, if any, that respondent may not practice. If the Board files a petition to revoke probation or an accusation based upon the positive drug screen, respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

OPTIONAL LANGUAGE: This condition may be waived or modified by the Board upon a written finding by the CDE that respondent is not a substance abusing licensee.

Osteopathic Medical Board of California

Drugs - abstain from use –

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by the Business and Professions Code, or any drugs requiring a prescription except for ordering or possessing medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

Respiratory Care Board of California

ABSTENTION FROM USE OF MOOD ALTERING SUBSTANCES

For purposes of these terms and conditions, a banned substance includes alcohol, marijuana, controlled substances and any and all other mood altering drugs and substances. Respondent shall completely abstain from the possession or use of all banned substances and their associated paraphernalia. Respondent may take other medication when lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Respondent shall provide the Board a copy of a prescription within five (5) days of the date the prescription was filled.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board.

Respondent shall ensure that he/she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s). Respondent shall also ensure he/ she is not ingesting or using any product that contains trace amounts of alcohol or any other banned substances including but not limited to: cold/flu medications, cough syrups, diet pills/products, mouth wash, skin care or hygiene products, perfumes, poppy seeds, dessert or any foods, etc...). Any positive result that registers over the established laboratory cutoff level for a banned substance, shall be reported to each of Respondent's employers.

California State Board of Pharmacy

Abstain from Drugs and Alcohol (Appropriate for those cases where the evidence demonstrates substance use.)

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that [he/she] is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled substances, or their associated

paraphernalia for which a legitimate prescription has not been issued as a necessary part of treatment, or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

California Veterinary Medical Board

Abstain from Controlled Substances

Respondent shall abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act (Health and Safety Code section 11000 et seq.), and dangerous drugs as defined in Business and Professions Code Section 4022, except for medication lawfully prescribed to Respondent by a licensed practitioner for a bona fide illness.

Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of Respondent's treatment. Abstain from controlled substances shall not be tolled.

California Acupuncture Board

Abstain from Drugs and Alcohol and Submit to Tests and Samples

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act (Division 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription. Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall undergo random, biological fluid testing as determined by the Board. Respondent shall bear all costs of such testing. The length of time and frequency will be determined by the Board. Any confirmed positive finding will be considered a violation of probation.

NOTE: This condition provides documentation that the probationer is substance or chemical free. It also provides the Board with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances.

Board of Behavioral Sciences

Abstain from Controlled Substances / Submit to Drug and Alcohol Testing

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the supervisor, if any, and shall be a violation of probation. If the Respondent tests positive for a controlled substance,

ATTACHMENT B

Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.



State of California

HEALTH AND SAFETY CODE

Section 11362.5

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

(Added November 5, 1996, by initiative Proposition 215, Sec. 1.)

**TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS**

PROPOSED LANGUAGE

Legend: Deleted text is indicated by ~~strikeout~~
Added text is indicated with an underline

Amend Section 2524 of Division 25 of Title 16 of the California Code of Regulations as follows:

§ 2524. Disciplinary Guidelines and Uniform Standards ~~Related to~~ Regarding Substance-~~Abuse~~ing Licensees.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.) the Board shall utilize the disciplinary guidelines entitled “Disciplinary Guidelines and Uniform Standards ~~Related to~~Regarding Substance-~~Abuse~~ing Licensees” (Rev. ~~6/20/11~~OAL Insert Effective Date), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards apply to a substance abusing licensee.

(a) Subject to subsection (b), deviation from the Disciplinary Guidelines, including the standard conditions of probation, is appropriate where the Board, 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; evidentiary problems.

(b) If the conduct found to be a violation involves the use of drugs and/or alcohol, the licensee shall be presumed to be a substance abusing licensee for purposes of Section 315 of the Business and Professions Code. If the licensee does not rebut that presumption, then the Uniform Standards for a substance abusing licensee shall apply.

(c) Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact as defined in subdivision (c) of section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

NOTE: Authority cited: Section 2854, Business and Professions Code; and Section 11425.50(e), Government Code. Reference: Sections 315, 315.2, 315.4, 729, 2875, 2876 and 2878, Business and Professions Code; Section 44010, Education Code; and Sections 11400.20, 11425.50(e) and 11500, Government Code.

Board of Voc Nursing & Psych Techs (BVNPT)	Proposed Language (VN)	Page 1 of 2
Sections Affected: 16 CCR §2524, 2579.10	Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees	BVNPT Revision Date: 05/18/2023

Amend Section 2579.10 of Division 25 of Title 16 of the California Code of Regulations as follows:

§ 2579.10. Disciplinary Guidelines and Uniform Standards ~~Related to~~ Regarding Substance-~~Abuse~~ing Licensees.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.) the Board shall utilize the disciplinary guidelines entitled “Disciplinary Guidelines and Uniform Standards ~~Related to~~ Regarding Substance-~~Abuse~~ing Licensees” (Rev. 6/20/11 OAL insert effective date), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards apply to a substance abusing licensee.

(a) Subject to subsection (b), deviation from the Disciplinary Guidelines, including the standard conditions of probation, is appropriate where the Board, 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; evidentiary problems.

(b) If the conduct found to be a violation involves the use of drugs and/or alcohol, the licensee shall be presumed to be a substance abusing licensee for purposes of Section 315 of the Business and Professions Code. If the licensee does not rebut that presumption, then the Uniform Standards for a substance abusing licensee shall apply.

(c) Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact as defined in subdivision (c) of section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Authority cited: Section 4504, Business and Professions Code; and Section 11425.50(e), Government Code. Reference: Sections 315, 315.2, 315.4, 729, 4520 and 4521, Business and Professions Code; Section 44010, Education Code; and Sections 11400.20, 11425.50(e) and 11500, Government Code.

Board of Voc Nursing & Psych Techs (BVNPT)	Proposed Language (VN)	Page 2 of 2
Sections Affected: 16 CCR §2524, 2579.10	Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees	BVNPT Revision Date: 05/18/2023

State of California
Department of Consumer Affairs
Board of Vocational Nursing
and Psychiatric Technicians

Note: The Board proposes to change font for existing text in this document from Calibri to Century Gothic

DISCIPLINARY GUIDELINES
AND
UNIFORM STANDARDS RELATED GARDING
SUBSTANCE-ABUSE ING LICENSEES

Revised ~~June 20, 2011~~ May 18, 2023
(Regulations Effective ~~December 29, 2012~~ OAL insert effective date)



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TABLE OF CONTENTS

	Pages
<i>Introduction</i>	<i>i-ii</i>
<u>Uniform Standards Regarding Substance–Abusing Healing Arts Licensees</u>	<u>ii</u>
<i>Regulatory Authority</i>	<u>iii-iv</u>
<u>Criteria and Factors to be Considered</u>	<u>iv-v-vi</u>
<u>Summary Lists of Quick Reference - Standard and Optional Conditions of Probation</u>	<u>v-vii-viii</u>
<u>Summary Lists of Uniform Standards -- Conditions of Probation</u>	<u>vii-ix</u>
Disciplinary Guidelines:	
Standard Conditions of Probation (1-14)	1 - <u>611</u>
Optional Conditions of Probation (15-<u>2524</u>)	7-<u>12</u> - <u>1121</u>
Uniform Standards Related to Substance Abuse:	
Uniform Standards – Required Conditions of Probation (<u>265-287</u>)	<u>1222</u> - <u>1324</u>
Uniform Standards – Optional Conditions of Probation (<u>298-310</u>)	<u>124</u> - <u>1526</u>
Violations & Recommended Disciplinary Actions	<u>126</u> – <u>2134</u>
<u>Evidence in Aggravation of Penalty</u>	<u>35</u>
<u>Evidence in Mitigation of Penalty</u>	<u>36</u>
<u>Rehabilitation Evidence</u>	<u>37-38</u>
<u>Model Orders</u>	<u>39-43</u>

INTRODUCTION

Business and Professions Code sections 2841.1 and 4501.1 mandate that protection of the public shall be the highest priority for the Board of Vocational Nursing and Psychiatric Technicians (Board) in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

To facilitate uniformity of disciplinary orders and to ensure that its disciplinary policies are known, the Board adopted these Disciplinary Guidelines and Uniform Standards Related to Regarding Substance Abuseing Licensees.

Disciplinary Guidelines

The Disciplinary Guidelines are intended for use by individuals involved in disciplinary proceedings against vocational nurse and psychiatric technician licensees or applicants, including administrative law judges and attorneys, as well as the Board members who review proposed decisions and stipulations and have ultimate authority to make final decisions.

While recognizing the concept that administrative law judges must be free to exercise their discretion, the Board requests that the Disciplinary Guidelines be followed to the extent possible and that any departures be noted and explained in the Proposed Decision.

The Board requests that matters in extenuation and mitigation, as well as those in aggravation, be fully considered and noted in the Proposed Decision. Of primary importance is the effect Respondent's conduct had or could have had on the health, safety, and welfare of California consumers.

The Board seeks reimbursement of its investigative and prosecution costs in all disciplinary cases in which the licensee is found to have committed a violation. The costs include all charges incurred from the Office of the Attorney General, the Division of Investigation, and Board services, including expert consultant opinions and services. The Board seeks reimbursement of these costs because the burden for payment of the costs of investigation and prosecution of disciplinary cases should fall upon those whose proven conduct required investigation and prosecution, not upon the profession as a whole. Cost recovery payment serves an important rehabilitative function by making licensees who have been disciplined confront the impacts of their actions and deterring future misconduct thereby further promoting public protection.

Uniform Standards Related Regarding to Substance-Abusing Healing Arts Licensees

Pursuant to Business and Professions Code section 315, the Department of Consumer Affairs (Department) Substance Abuse Coordination Committee formulated Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (Rev. ~~4/20/11~~ March 2019). The Board's Uniform Standards not otherwise incorporated into the Standard Conditions are found in Conditions of Probation 25, 26, 27, 28, 29, and 30. The Uniform Standards apply when dealing with substance-abusing licensees.

If the conduct found to be a violation involves the use of drugs and/or alcohol, the licensee shall be presumed to be a substance abusing licensee. If the licensee does not rebut that presumption, then Conditions of Probation 25, 26 and 27 shall be imposed unless the licensee establishes that, in ~~his or her~~ their particular case, appropriate public protection can be provided with modification or omission of a specific standard as a ~~term~~ condition of probation.

Conditions of Probation 28, 29, and 30 shall be considered where the licensee is found to be a substance abuser, and, if the nature and circumstances of the particular case warrant, shall be imposed as probation conditions.

The Board may impose more restrictive conditions, if necessary, to protect the public.

REGULATORY AUTHORITY

California Code of Regulations Title 16, Division 25

Section 2524 (Vocational Nurse) - & ~~Section 2579.10 (PT):~~

~~Disciplinary Guidelines and Uniform Standards Related to~~ Regarding Substance-
Abuseing Licensees.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.) the Board shall utilize the disciplinary guidelines entitled "Disciplinary Guidelines and Uniform Standards ~~Related to~~ Regarding Substance-Abuseing Licensees" (Rev. ~~6/20/11~~ OAL insert effective date), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all Disciplinary matters; The Uniform Standards apply to a substance abusing licensee.

- (a) *Subject to subsection (b), deviation from the Disciplinary Guidelines, including the standard conditions of probation, is appropriate where the Board, 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; evidentiary problems.*
- (b) *If the conduct found to be a violation involves the use of 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, then the Uniform Standards for a substance abusing licensee shall apply.*
- (c) *Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact as defined in subdivision (c) of section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.*

Section 2579.10 (Psychiatric Technician):

Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.) the Board shall utilize the disciplinary guidelines entitled "Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees" (Rev. OAL insert effective date), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all Disciplinary matters; the Uniform Standards apply to a substance abusing licensee.

- (a) Subject to subsection (b), deviation from the Disciplinary Guidelines, including the standard conditions of probation, is appropriate where the Board, 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; evidentiary problems.
- (b) If the conduct found to be a violation involves the use of 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, then the Uniform Standards for a substance abusing licensee shall apply.
- (c) Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact as defined in subdivision (c) of section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

CRITERIA AND FACTORS TO BE CONSIDERED

In determining whether revocation, suspension or probation should be imposed in a given disciplinary action, the following factors should be considered:

- *Nature and severity of the act(s), offense(s), or crime(s) under consideration.*
- *Actual or potential harm to the public.*
- *Actual or potential harm to any patient.*
- *Overall length of licensure.*
- *Overall disciplinary record, including level of compliance with disciplinary order(s).*
- *Overall criminal actions taken by any federal, state or local agency or court.*
- *Prior warnings on record or prior remediation.*
- *Number and/or variety of current violations.*
- *Mitigating or aggravating evidence.*
- *In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.*
- *Time passed since the act(s) or offense(s) occurred.*
- *If applicable, evidence of proceedings to dismiss a conviction pursuant to PenalCode section 1203.4.*
- *Cooperation with the Board and other law enforcement or regulatory agencies.*
- *Other rehabilitation evidence.*
- *Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the Respondent is being held to account for conduct committed by another, the Respondent had knowledge of or knowingly participated in such conduct.*

- Financial benefit to the Respondent from the misconduct.
- Other licenses held by the Respondent and license history of those licenses.
- Uniform Standards Regarding Substance-Abusing Healing Arts Respondents (see Business and Professions Code Section 315).
- No single one or combination of the above factors is required to justify the minimum and/or maximum penalty in a given case, as opposed to an intermediate one.

Substantially Related Criteria. The Board may deny, suspend, or revoke a license if the applicant or licensee has been convicted of a crime, professional misconduct, or act that is substantially related to the qualifications, functions, or duties of a vocational nurse or psychiatric technician based on the criteria specified in California Code of Regulations title 16 (CCR), sections 2521 or 2578, as applicable.

SUMMARY LISTS OF QUICK REFERENCE - STANDARD AND OPTIONAL CONDITIONS OF PROBATION

Standard Conditions of Probation (1 – 14):

The Standard Conditions of Probation (1-14) are those conditions of probation ~~which will generally~~ that should appear in all cases involving probation as standard terms and conditions.

1. Obey All Laws
2. Cooperation and Compliance with Probation Program
3. ~~Submit~~ Submission of Written Reports
4. Notification of Current and Change in Name, Address(es) and Telephone Number(s)-Change(s)
5. Notification of Residency, ~~or Practice,~~ or Licensure Outside of State
6. Meetings with Board Representative(s)
7. Notification to Employer(s)
8. Employment Requirements and Limitations
9. Supervision Requirements
10. Completion of Educational Course(s)
11. Maintenance of ~~Valid~~ Current and Active License
12. Cost Recovery Requirements
13. License Surrender
14. Violation of Probation

Optional Conditions of Probation (15 – 254):

The Optional Conditions of Probation (15-254) are those conditions of probation which address specific circumstances of the case.

- *If relevant to the violation, any of the Optional Conditions may be included in the probation requirements.*
- *If the offense involves substance abuse, including alcohol, Optional Conditions 19-22 are usually required (in addition to the Standard Conditions 1-14 and, if the licensee is found to be a substance-abuser, Uniform Standards Conditions ~~265-287~~). Optional Conditions 16-18, ~~232~~, and Conditions ~~298-310~~ are also recommended, if relevant.*
- *If Respondent's license has been or will have been expired for over four (4) years by the time a decision is rendered, Respondent shall be required to take and pass the licensure examination (Condition ~~243~~).*
- *If the case involves mental illness, Conditions 16-18 are recommended.*

15. *Suspension of License*
16. *~~Examination by a Physician~~ Physical Examination*
17. *Psychiatric/Psychological Evaluation*
18. *Psychotherapy or Mental Health Counseling*
19. *Rehabilitation Program*
20. *Addictive Behavior Support Groups/Recovery Groups*
21. *Abstain from Controlled Substances and Alcohol*
- ~~22. *Abstain from Use of Alcohol and Products Containing Alcohol*~~
- ~~23.~~22. *Submit Biological Fluid Samples to Drug and Alcohol Testing*
- ~~24.~~23. *Take and Pass Licensure Examination*
- ~~25.~~24. *Restrictions on Licensed Practice*

**SUMMARY LISTS OF
UNIFORM STANDARDS – CONDITIONS OF PROBATION**

Required Conditions of Probation (~~265~~ -- ~~287~~):

The following Uniform Standards -- Conditions of Probation shall be imposed as probation conditions in cases where Respondent is placed on probation due to substance abuse.

- ~~26-25.~~ Submit to Drug Testing
- ~~27-26.~~ Positive Drug Test
- ~~28-27.~~ Major and Minor Violations

Optional Conditions of Probation (~~298~~ -- ~~310~~):

The following Uniform Standards -- Conditions of Probation shall be considered and, if the circumstances of the case warrant, shall be imposed as probation conditions.

- ~~29-28.~~ Clinical Diagnostic Evaluation
- ~~30-29.~~ Group Meetings with Qualified Facilitator
- ~~31-30.~~ Worksite Monitor

DISCIPLINARY GUIDELINES

STANDARD CONDITIONS OF PROBATION [1-14]

1. OBEY ALL LAWS

Respondent shall obey all federal, state and local laws at all times, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the Board within 5 calendar days of occurrence. This provision applies during any period of suspension or any other period of non-practice, in state or out of state.

To ensure compliance with this condition, Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 calendar days of the effective date of the Decision, unless the Board determines that fingerprints were previously submitted by the Respondent to the Board.

Respondent shall also submit to the Board a recent 2" x 2" photograph of ~~himself/herself~~ the Respondent within 30 calendar days of the effective date of the Decision.

If Respondent is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions. Respondent shall submit proof of satisfactory completion of any criminal probation or parole that ends after the effective date of the Board's Decision. Respondent shall submit certified copies of court documents related to the expungement of any conviction(s) if not previously submitted.

2. COOPERATION AND COMPLIANCE WITH PROBATION PROGRAM

Respondent shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Probation Program.

Respondent shall immediately respond, unless otherwise specified by another term or condition of probation in this Decision, to all requests for information and inquiries by the Board or its designee regarding

Respondent's compliance with any term or condition of probation. Failure to timely respond shall be considered a violation of probation.

If on criminal probation or parole, Respondent shall, within 15 calendar days of the effective date of the Decision, provide their probation or parole officer with notice of the Board's decision in this case, which shall include a copy of the Board's Accusation or Statement of Issues and Disciplinary Decision. The notice to Respondent's parole or probation officer shall also include providing the parole or probation monitor with the name, title, telephone number and email address for the Board's staff person who is Respondent's probation monitor. Respondent shall also provide the Board or its designee with the contact information (name, telephone number and physical address) for their assigned probation or parole officer within 15 calendar days of the effective date of the Decision.

Upon successful completion of probation, Respondent's license will be fully restored.

3. SUBMITSSION OF WRITTEN REPORTS

Respondent shall submit or cause to be submitted, under penalty of perjury, any written reports or declarations and verifications of actions as required by the Board or its representatives. These reports or declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program, including: (A) written disclosures regarding whether Respondent has complied with each term and condition of probation contained in this Decision ("complete report"); and, if applicable, (B) if Respondent discloses they are not in compliance with any term or condition, a written statement regarding why Respondent is not in compliance with any term or condition of probation.

Complete reports are due quarterly and shall be submitted to the Board or its designee by mail, email, fax or in-person at the Board's offices in accordance with the following schedule for each calendar year of probation:

- A. Reporting period: January 1st through March 31st (Due no later than April 7th).
- B. Reporting period: April 1st through June 30th (Due no later than July 7th).
- C. Reporting period: July 1st through September 30th (Due no later

- than October 7th), and,
D. Reporting period: October 1st – December 31st (Due no later than January 7th).

Incomplete written reports or reports submitted or postmarked after the reporting dates listed above shall be considered late and not in compliance with this condition.

Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

In the first report, Respondent shall provide a list of all states and territories where he/she has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Respondent shall provide information regarding the status of each license and any change in license status during the period of probation. Respondent shall inform the Board if he/she applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Respondent shall provide a copy of the Board's Decision to the regulatory agency in every state and territory in which he/she has applied for or holds a vocational/practical nurse, psychiatric technician, and/or registered nurse license.

4. NOTIFICATION OF CURRENT AND CHANGES TO NAME, ADDRESS(ES) AND TELEPHONE NUMBER CHANGE(S)

Within 5 calendar days of the effective date of the Decision, Respondent shall submit by mail, email, facsimile or in-person to the Board in writing Respondent's current physical address, mailing address(es), email address, and telephone number(s) to the Board or its designee.

Respondent shall notify the Board, or its designee, in writing, within 5 calendar days of the date of any change in name, physical address, mailing address(es), email address, or telephone number(s).

Respondent's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

5. NOTIFICATION OF RESIDENCY, ~~OR PRACTICE~~, OR LICENSURE OUTSIDE OF STATE (TOLLING)

Respondent shall notify the Board, in writing, within 5 days of the date of departure, if ~~he/she~~ Respondent leaves California to reside or practice in another state. Respondent's probation shall be tolled if Respondent leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If Respondent resides or practices outside of California, the period of probation shall be automatically extended for the same time period ~~he/she~~ Respondent resides or practices outside of California. Respondent shall provide written notice to the Board within 5 days of any change of residency or practice. Respondent shall not be relieved of the obligation to maintain an active and current license with the Board. It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total of 2 years.

Respondent shall notify the Board or its designee of their return to California to reside or practice, in writing, within 5 calendar days of the date of, ~~upon his/her~~ the Respondent's return to California.

Respondent shall submit annually, within 30 calendar days of the date requested by the Board or its designee, a written document verifying Respondent's out-of-state residency, practice or licensure outside of California, to the Board or its designee by mail that includes a statement signed and dated by the Respondent that includes the following:

- A. Respondent's Full Legal Name,
- B. Respondent's Board License Number and, if applicable, Out-of-State License Number,
- C. Physical Address,
- D. Telephone Number,
- E. Email Address,
- F. Beginning Date of Residence/Practice Outside of California, and
- G. Ending Date of Residence/Practice Outside of California (if applicable).

Periods of residency or practice outside of California do not relieve Respondent of the responsibility to comply with the terms and conditions of probation.

6. MEETINGS WITH BOARD REPRESENTATIVE(S)

Respondent shall appear in person, or by telephone or video conference at meetings as directed by the Board or its designated representatives. Respondent shall provide proof of identity that includes a current state or federal government-issued photo identification (e.g., driver license, passport, or military identification) to the Board or its designee for examination upon request at any meeting.

7. NOTIFICATION TO EMPLOYER(S)

When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify ~~his/her~~ Respondent's current or prospective health care employer of the probationary status of Respondent's license. ~~This a~~ Notification to the Respondent's current health care employer shall occur no later than the effective date of the Board's Decision. The Notification of the Respondent's shall notify any prospective health care employer of his/her probationary status with the Board shall occur prior to accepting such employment. At a minimum, this notification to the current or prospective employer shall be accomplished by providing the current employer or prospective employer with a copy of the Board's Accusation or Statement of Issues and Disciplinary Decision with the Accusation or Statement of Issues. The notification to Respondent's employer shall also include the name, title, telephone number and email address for the Board's staff person who is Respondent's probation monitor.

Respondent shall provide to the Board the name(s), physical address(s), mailing address(s), and telephone number(s) of all health care employers and supervisors. Respondent shall complete the required consent forms and sign an agreement with his/her employer(s) and supervisor(s) authorizing the Board and the employer(s) and supervisor(s) to communicate regarding Respondent's work status, performance, and monitoring.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit to the Board all performance evaluations and any other employment related

reports as required by the Board. Respondent shall notify the Board, in writing, of any difficulty in securing employer reports within 5 days of such an event.

Respondent shall notify the Board, in writing, within 5 days of any change in employment status. Respondent shall notify the Board, in writing, if he/she is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS

Respondent shall work in ~~his/her~~ their licensed capacity in the state of California. This practice shall consist of no less than 6 continuous months and of no less than ~~20~~ 160 hours per ~~week~~month.

Respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board or its designee. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board or its designee.

9. SUPERVISION REQUIREMENTS

Before commencing or continuing employment in any health care profession, Respondent shall obtain approval from the Board of the supervision provided to Respondent while employed.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants, or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation, except as approved, in writing, by the Board; or its designee.

10. COMPLETION OF EDUCATIONAL COURSE(S)

No later than the end of the first year of probation, Respondent, at ~~his/her~~ Respondent's own expense, shall enroll in, attend, and successfully complete Board-approved coursework substantially related

to the Respondent's violation(s) no later than the end of the first year of probation as set forth below.

The coursework shall be determined by the Board or its designee consistent with the requirements of this section and will consist of not less than 30 hours of coursework ("Board-approved coursework"). The coursework shall be in addition to that required for license renewal. The Board shall notify Respondent of the course content and number of contact hours required to meet this condition ("assigned coursework"). The Board's notice to Respondent shall provide the following:

- (a) A description of the specific subject matter of the course(s) that must be completed in compliance with this condition of probation,
- (b) Specify that 30 coursework hours, at a minimum, must be completed,
- (c) Specify that the coursework must be taken from a Board-approved provider as provided in Title 16, California Code of Regulations sections 2540.2(b), 2592.2(b), 2540.3 and 2592.3, or other any provider deemed equivalent by the Board or its designee on a case-by-case basis; and,
- (d) Advise Respondent that they have 30 days from the date of this written notice to submit by mail, email or facsimile or in-person to the Board or its designee a written request for approval of proposed coursework that includes the following:

- (1) Name of the educational course provider;
- (2) Course outline, syllabus, or other document describing the proposed educational course(s);
- (3) A short, descriptive title of the educational course(s);
- (4) A statement of educational objectives;
- (5) Length of the educational course(s);
- (6) Sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured; and,
- (7) Instructional mode or methods.

Within 30 calendar days of the Board's written notification of assigned coursework as specified above, Respondent shall submit a written plan to comply with this requirement that includes all information and documents required by this section; such plan shall be submitted by mail, email, fax or in-person to the Board or its designee.

The Board or its designee shall approve all proposed plans that meet

the following criteria:

- (a) Respondent has submitted to the Board or its designee all information required by this section;
- (b) The course content is directly relevant to the subject matter of the violation(s) alleged in the Board's decision placing Respondent on probation and includes a law and ethics component; and,
- (c) The course is offered by an approved provider (as specified above). The Board or its designee may approve other course providers determined equivalent on a case-by-case basis.

The Board shall provide notice of approval of such plan prior as a condition precedent to Respondent's enrollment in any course of study. Upon Respondent's meeting the requirements for Board approval specified above, the Board shall immediately send notice of Board approval containing the following:

- (a) approval of the coursework plan,
- (b) the number of contact hours required to be completed, and,
- (c) the required completion date.

Any coursework taken by Respondent for which Respondent did not receive prior Board approval in accordance with this section shall not be counted towards fulfillment of this condition.

Upon successful completion of the Board-approved coursework, Respondent shall submit "original" completion certificate(s) to the Board or its designee within 30 calendar days of course completion.

11. MAINTENANCE OF ~~VALID~~ CURRENT AND ACTIVE LICENSE

Respondent shall, at all times, maintain an active and current license with the Board, including any period of suspension.

~~If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the Board. Respondent must complete the licensure process within 2 years from the effective date of the Board's Decision. Should Respondent's license expire, by operation of law or otherwise, upon renewal or reinstatement, Respondent's license shall be subject to any and all conditions of this probation not previously satisfied. Failure to pay all renewal fees prior to Respondent's license expiration date shall constitute a violation of probation. If the license is expired at the time the Board's decision becomes effective, the license must be renewed~~

within 30 days of the effective date of the Decision.

12. COST RECOVERY REQUIREMENTS

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$ _____ including during any period of tolling or suspension.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board with payments to be completed no later than three months prior to the end of the probation period, unless probation is extended pursuant to this term. ~~The filing of bankruptcy by Respondent shall not relieve Respondent of his/her responsibility to reimburse the Board for its investigation and prosecution costs.~~

Failure to make payments in accordance with any payment plan, formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

When Respondent's probation is tolled or Respondent is suspended, cost recovery shall be paid in full by the date that the probation would have been completed if the probation had not been tolled or suspended.

If Respondent has not complied with this condition 3 months prior to the end of the probationary period ~~during the probationary period~~, and Respondent presents sufficient documentation of his/her Respondent's good faith effort to comply with this condition, and if no other conditions have been violated, the Board or its representatives may, upon written request from Respondent, extend the probation period up to one year, without further hearing, in order to comply with this condition. During the extension, all original conditions of probation will apply.

Except as provided above, the Board shall not renew or reinstate the license of any ~~Respondent~~ who has failed to pay all the costs as directed in a Decision.

13. LICENSE SURRENDER

During probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation, Respondent may seek approval from the Board to voluntarily surrender his/her Respondent's license to the Board by submitting by mail to the Board or its designee a written request to surrender their license. Respondent's written request to surrender their license shall include the following: their name, license number, case number, mailing address, and an explanation of the reason(s) why Respondent seeks to surrender their license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request or take any other action deemed appropriate and reasonable without further hearing under the circumstances for the protection of the public.

The Board will consider whether the request would compromise public protection under the following circumstances: when Respondent has (1) an unsatisfied cost recovery, fine, or restitution order, (2) an Accusation or Petition to Revoke Probation that has been served on Respondent alleging violations of this probation, or (3) an unresolved complaint or investigation pending with the Board. Respondent shall not be relieved of the requirements of their probation, unless the Board or its designee notifies respondent in writing that Respondent's request to surrender their license has been accepted.

Upon the date of the Board's written notice of the formal acceptance of the tendered license, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license during the probationary period shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board.

~~A licensee who surrenders his/her license~~ Respondent may petition the Board for reinstatement of the surrendered license no sooner than the following minimum periods from the effective date of the disciplinary Decision for the surrender:

- a. a. 3 years for reinstatement of a license surrendered for any reason other than a mental or physical illness; or
- b. b. 1 year for a license surrendered for a mental or physical illness.

14. VIOLATION OF PROBATION

If Respondent violates the conditions of ~~his/her~~ Respondent's probation, the Board, after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (denial/revocation/suspension) of Respondent's license.

If during probation, an Accusation or Petition to Revoke Probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an Accusation or Petition to Revoke Probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the Accusation or Petition to Revoke Probation has been acted upon by the Board. During the extension of the probationary period, all original terms and conditions of probation will continue to apply.

OPTIONAL CONDITIONS OF PROBATION [15-245]

15. SUSPENSION OF LICENSE

Respondent is suspended from practice as a vocational nurse or psychiatric technician for _____ month(s) (period not to exceed one year) beginning on the effective date of this Decision.

During suspension, all probation conditions are in full force and effect except those relating to actual practice. The period of suspension will not apply to the reduction of this probationary period. The probation shall be automatically extended for the same time period as the length of suspension

16. EXAMINATION BY A PHYSICIAN PHYSICAL EXAMINATION

Within 60 calendar days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician of ~~his/her~~ Respondent's choice who meets minimum criteria established by the Board. The physician must hold a current, active and unrestricted ~~be~~ licensed in California and be Board certified in Family Practice, Internal Medicine or a related specialty. The purpose of this examination shall be to determine Respondent's ability to perform all professional duties with safety to self and to the public.

Respondent shall provide the examining physician with a copy of the Board's ~~Disciplinary Order~~ Decision with the applicable Accusation or Statement of Issues prior to the examination. The cost of such examination shall be paid by Respondent. Respondent shall sign a release authorizing the physician to communicate with the Board and to furnish the Board with a current diagnosis and a written report regarding the Respondent's ability to function independently as a [insert license type] with safety to self and to the public.

Within 30 calendar days from the date of the examination, Respondent shall cause the physician to submit to the Board, or its designee, a written medical report in a format acceptable to the Board. This report shall be submitted within 90 days of the effective date of the Decision.

If the examining physician finds that Respondent is not physically fit to practice, or can only practice with restrictions, the examining physician shall notify the Board verbally within 24 hours and in writing within 5 working days. The Board, or its designee, shall notify Respondent in

writing of the examining physician's determination of unfitness to practice and shall order Respondent to cease or restrict licensed activities as additional conditions of probation ; a violation of these additional conditions shall be considered a violation of probation.

Respondent shall comply with any order to cease or restrict ~~his/her~~ Respondent's practice until the Board or its designee is satisfied of Respondent's fitness to practice safely and has so notified the Respondent in writing. Respondent shall document compliance in the manner required by the Board or its designee.

17. PSYCHIATRIC/PSYCHOLOGICAL EVALUATION

Within 60 calendar days of the effective date of the Decision, Respondent shall submit a written request by mail, email, facsimile or in-person to the Board or its designee for Board approval of a psychiatrist or psychologist to perform an evaluation of Respondent's psychological condition ("evaluator"). The written request shall include the name and description of the qualifications of the proposed evaluator (license type, license number, and a written statement describing how they meet the applicable criteria for Board approval outlined in paragraphs 1-4 below).

The Board shall approve any evaluator who meets the following criteria:

1. Holds a current, active and unrestricted psychologist license issued by the California Board of Psychology or
2. Holds a current, active and unrestricted license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California and is certified in psychiatry by the American Board of Psychiatry and Neurology; and,
3. Possesses at least 3 years' knowledge, training, and experience in conducting psychiatric or psychological evaluations; and,
4. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with the Respondent.

Within 15 days of the receipt of the completed written request containing all information required above, the Board shall notify Respondent in writing whether Respondent's request has been approved.

Within ~~60~~30 calendar days of the ~~effective~~ date of the ~~Decision~~ Board's written notice of approval of Respondent's proposed evaluator(s),

Respondent shall submit to a psychiatric/psychological evaluation ("evaluation"). The evaluation shall be performed by a psychiatrist or psychologist licensed in California and Board certified in psychiatry, or by a clinical psychologist licensed in California meeting the Board's requirements for approval specified above. This evaluation shall be for the purpose of determining Respondent's current mental, psychological, and emotional fitness to perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Decision with the applicable Accusation or Statement of Issues prior to the evaluation. The cost of such evaluation shall be paid by Respondent. Respondent shall sign a release authorizing the evaluator to communicate with the Board and to furnish the Board with a current diagnosis and a written report regarding Respondent's current mental, psychological, and emotional fitness to perform all professional duties with safety to self and to the public as a [insert license type] ("Respondent's status and progress").

Respondent shall cause the evaluator to submit to the Board a written report concerning Respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted in a format acceptable to the Board within ~~90~~ 30 days from the effective date of the Decision.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice with restrictions, the evaluator shall notify the Board verbally within 24 hours and in writing within 5 working days. The Board shall notify Respondent in writing of the evaluator's determination of unfitness to practice and shall order Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with any order to cease or restrict his/her practice until the Board is satisfied of Respondent's fitness to practice safely and has so notified Respondent in writing. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required or an additional evaluation is required, Respondent shall participate in a therapeutic program or submit to an additional evaluation at the Board's discretion. The cost of such therapy or evaluation shall be paid by Respondent.

18. PSYCHOTHERAPY OR MENTAL HEALTH COUNSELING

Within 60 calendar days of the effective date of the Decision, Respondent shall submit by mail, email, facsimile or in-person to the Board ~~for prior approval~~ or its designee, a written request for approval that contains:

- (a) the name of one or more proposed ~~therapists~~ mental health professionals that holds a current, active and unrestricted license in California; and,
- (b) a description of the qualifications of the proposed evaluator (license type, license number, and a written statement describing how they meet the criteria for Board approval outlined in paragraphs 1-3 below).

For the purposes of this Decision, "mental health professional" shall include a psychiatrist (physician and surgeon with Board certification as specified below), psychologist, licensed marriage and family therapist (LMFT), licensed clinical social worker (LCSW), or a licensed professional clinical counselor (LPCC). The Board shall approve any mental health professional who meets the following criteria:

1. Holds a current, active and unrestricted mental health professional license in California as a: (A) psychologist, (B) a physician and surgeon (from the Medical Board of California or the Osteopathic Medical Board of California and is certified in psychiatry by the American Board of Psychiatry and Neurology), (C) LMFT, (D) LCSW or (E) LPCC,
2. Possesses at least 3 years' knowledge, training, and experience in providing psychotherapy or counseling, and,
3. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with the Respondent.

Within 15 calendar days of the receipt of the completed written request containing all information required above, the Board shall notify Respondent in writing whether Respondent's request has been approved.

Within 30 calendar days from the date of the Board's notice of written approval of the mental health professional(s), Respondent shall participate in ongoing psychotherapy or mental health counseling (professional clinical counseling – "counseling" as used hereafter) with a California licensed or legally registered mental health professional who has been approved by the Board in accordance with this section.

Respondent shall provide the ~~therapist~~ mental health professional with a copy of the Board's ~~Disciplinary Order~~ Decision along with the applicable Accusation or Statement of Issues no later than the first therapy or counseling session. If Respondent completed a psychiatric or psychological evaluation as a condition of this probation, the Board or its designee shall provide the mental health professional conducting the therapeutic or counseling sessions with a copy of the psychiatric or psychological evaluation before the date of Respondent's first therapy or counseling session. Therapy or counseling sessions shall be at least once a week unless otherwise determined by the Board, in consultation with the mental health professional. Respondent shall continue in such therapy or counseling at the Board's discretion. The cost of such therapy or counseling shall be paid by the Respondent. Respondent shall cause the ~~therapist~~ mental health professional to submit to the Board a written report concerning Respondent's psychotherapy or counseling status and progress as well as such other information as may be requested by the Board. The initial ~~psychotherapy~~ mental health professional's report shall be submitted in a format acceptable to the Board within 90 days from the effective date of the Decision. Respondent shall cause the ~~therapist~~ mental health professional to submit quarterly written reports to the Board concerning Respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall also sign a release authorizing the mental health professional to communicate with the Board and to furnish the Board with a current diagnosis and a written report regarding Respondent's fitness to practice as a [insert license type], and progress in treatment ("Respondent's psychotherapy or counseling status and progress").

If the ~~therapist~~ mental health professional finds that Respondent is not psychologically fit to practice safely, or can only practice with restrictions, the ~~therapist~~ mental health professional shall notify the Board or its designee verbally within 24 hours and in writing within 5 working business days. The Board or its designee shall notify Respondent in writing of the ~~therapist's~~ mental health professional's determination of unfitness to practice and shall order Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with any order to cease or restrict ~~his/her~~ Respondent's practice until the Board or its designee is satisfied of Respondent's fitness to practice safely and has so notified Respondent in writing. Respondent shall document compliance with this condition in the manner required by the Board.

19. REHABILITATION PROGRAM

Within 30 calendar days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit written verification of successful completion of such treatment from the rehabilitation program, in a format acceptable to the Board or its designee within 30 calendar days of completion.

Components of the treatment contract shall be relevant to the violation(s) and to Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol or other identified types of addictive behavior, use of work site monitors, participation in addictive behavior rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate in-patient or out-patient rehabilitation, recovery or monitoring programs. The cost for participation in ~~this~~these programs shall be paid by Respondent.

20. ADDICTIVE BEHAVIOR SUPPORT GROUPS/RECOVERY GROUPS

Within ~~five (5)~~30 calendar days of the effective date of the Decision, Respondent shall begin and continue attendance at an addictive behavior support group/recovery group (e.g. Twelve Step meetings or the equivalent, or a facilitated group with a mental health professional trained in alcohol or drug abuse treatment-Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group, Al Anon, Gamblers Anonymous). Verified documentation of attendance shall be submitted by the Respondent with each written report as required by the Board.

Respondent shall continue attendance in such a group for the duration of probation; unless notified in writing by the Board or its designee that attendance is no longer needed.

Respondent shall attend support group/recovery group meetings no less than one time per week, unless determined otherwise by the Board or its designee in consultation with a physician and surgeon or mental health professional (a psychiatrist (physician and surgeon with Board certification in psychiatry by the American Board of Psychiatry and

Neurology), psychologist, licensed marriage and family therapist (LMFT), licensed clinical social worker (LCSW), or a licensed professional clinical counselor (LPCC)), and using the criteria specified below.

When determining the type and frequency of required addictive behavior support group meeting attendance (including lowering or increasing attendance requirements outside the once-a-week minimum), the Board or its designee shall give consideration to the following:

- The licensee's history;
- The documented length of sobriety/time that has lapsed since substance use;
- The recommendation of a mental health professional;
- The scope and pattern of use;
- The licensee's treatment history; and,
- The nature, duration, and severity of substance abuse.

21. ABSTAIN FROM CONTROLLED SUBSTANCES AND ALCOHOL

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Business and Professions Code §sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed, ordered, or recommended by a licensed practitioner for a bona fide illness. By the effective date of this decision, and thereafter within 15 days of the date of being prescribed or recommended a dangerous drug or controlled substance, Respondent shall provide documentation of lawfully prescribed, ordered, or recommended drugs. "Documentation" shall include a written copy of the prescription or medical marijuana recommendation to the Board or its designee by mail, email, facsimile or in-person at the Board's offices.

Respondent shall completely abstain from the use of alcoholic beverages and products containing alcohol, including over the counter medications, foods containing alcohol, mouthwashes, "non-alcoholic" beers, and fermented beverages.

[Note: If this term is included in the probationary order, then Term No. 22 "Submit to Drug and Alcohol Testing" must also be included to ensure abstinence occurs in compliance with this condition of probation.]

~~22. ABSTAIN FROM USE OF ALCOHOL AND PRODUCTS CONTAINING ALCOHOL~~

~~Respondent shall completely abstain from the use of alcoholic beverages and products containing alcohol.~~

23.22. SUBMIT BIOLOGICAL FLUID SAMPLE TO DRUG AND ALCOHOL TESTING

Respondent shall immediately submit to ~~biological fluid testing, random, observed, and directed drug and alcohol testing, including biological fluid or hair sample, breath alcohol, or any other mode of testing at~~ respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and the respondent's current employer.

Prior to or within 30 days of the effective date of the Decision, the Board or its designee shall provide written notice to Respondent regarding the name and telephone number of the Board's designated drug and alcohol testing provider ("testing provider") and direct Respondent to test in accordance with this section. Respondent shall make daily contact, including weekends and holidays, to the Board's testing provider to determine if Respondent must submit to testing that same day. Respondent shall submit Respondent's specimen (e.g., biological fluid or hair sample, or exhale breath for breath alcohol testing) on the same day that Respondent is notified that a test is required.

There will be no confidentiality in test results; positive test results will be immediately reported to the Board or its designee, and the ~~r~~Respondent's current employer.

[Note: If this term is included in the probationary order, then Term No. 21 "Abstain from Controlled Substances and Alcohol" must also be included to ensure the Board can establish that the Respondent ingested a prohibited substance (drugs or alcohol, if abstinence is ordered) if a positive test result is obtained in compliance with this condition of probation.]

2423. TAKE AND PASS LICENSURE EXAMINATION

(Statement of Issues) — Note: If this condition is intended to precede issuance of the license, this language should be used with the “MODEL ORDER” entitled “Grant Application and Place Licensee on Probation After Completion of Conditions Precedent” below.

Prior to commencing practice, Respondent shall take and pass the licensure exam currently required of new applicants within 2 years from the effective date of the Board's Decision. Respondent shall pay the established examination fees.

This probationary period shall not commence until Respondent has successfully passed the licensure examination and a license is issued by the Board.

(Reinstatement of License) – Note: If this condition is intended to precede reinstatement of the license, this language should be used with the “MODEL ORDER” entitled “Grant Petition and Place Licensee on Probation After Completion of Conditions Precedent” below.

Prior to resuming practice, Respondent shall take and pass the licensure exam currently required of new applicants within 2 years from the effective date of the Board's Decision. Respondent shall pay the established examination fees.

This probationary period shall not commence until Respondent has successfully passed the licensure examination and a license is issued by the Board.

(Current License)

Prior to resuming or continuing practice, Respondent shall take and pass the licensure examination currently required of new applicants within 2 years from the effective date of the Board's Decision. Respondent shall pay the established examination fees.

Respondent shall not resume practice until the date that written notice has been sent to Respondent by the Board or its designee indicating that Respondent has passed the licensure examination.

This probationary period shall not commence until Respondent has successfully passed the licensure examination and notice has been mailed to Respondent by the Board.

2324. RESTRICTIONS ON LICENSED PRACTICE

Respondent shall practice only with a specified client population, in a specified practice setting, and/or engage in limited medical procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board or its designee.

**UNIFORM STANDARDS
FOR SUBSTANCE-ABUSING LICENSEES**

UNIFORM STANDARDS – REQUIRED CONDITIONS OF PROBATION [265 -- 287]

265. SUBMIT TO DRUG TESTING

Respondent shall immediately submit to random, observed and directed drug testing, at Respondent's cost, upon request by the Board or its designee. Respondent shall be subject to the frequency of testing specified and any exceptions to testing frequency specified in Standard 4 of the Substance Abuse Coordination Committee's Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (~~April 2011~~ March 2019 hereinafter referred to as "SACC Standard" individually) established by the Substance Abuse Coordination Committee. Respondent shall make daily contact as directed by the Board to determine if ~~he/she~~ Respondent must submit to drug testing. Respondent shall submit ~~his/her~~ Respondent's specimen on the same day that ~~he/she~~ Respondent is notified that a test is required. ~~All~~ Any ~~alternatives collection sites to the Respondent's drug testing requirements (including frequency)~~ due to vacation or travel outside of California absence must be approved by the Board prior to the vacation or ~~travel~~ absence.

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation.

Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within 1 business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within 7 days of receipt of the specimen. The Board shall be notified of non-negative test results within 1 business day and shall be notified of negative test results within 7 business days.

There will be no confidentiality in test results. Positive test results will be immediately reported to the Board, Respondent's employer and worksite monitor, if any.

27-26. POSITIVE DRUG TEST

When the Board confirms that a positive drug test is evidence of use of a prohibited substance, Respondent has committed a major violation and the Board shall impose the consequences set forth in Major and Minor Violations.

A positive result for a banned substance will result in Respondent being ordered to cease practice and subject ~~his/her~~ Respondent's license to further disciplinary action.

28-27. MAJOR AND MINOR VIOLATIONS

Major Violations include, but are not limited to, the following:

1. Failure to complete a Board_-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance; and
8. Knowingly using, making, altering, or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If Respondent commits a major violation, the Board shall order Respondent to cease practice and refer the matter for disciplinary action or other action as determined by the Board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused non-attendance at required meetings;
3. Failure to contact a monitor when required; and
4. Any other violations that do not present an immediate threat to the licensee or to the public.

If Respondent commits a minor violation, the Board shall determine

what action is appropriate.

**UNIFORM STANDARDS –
OPTIONAL CONDITIONS OF PROBATION [298 -- 310]**

29.28. CLINICAL DIAGNOSTIC EVALUATION

Within 30 days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator's scope of practice must include the ability to conduct a clinical diagnostic evaluation. The evaluator must have a valid, unrestricted license, at least three years' experience in providing evaluations of health professionals with substance abuse disorders, and the evaluator must be approved by the Board. The evaluator shall not have a financial, personal, or business relationship with the licensee within the last 5 years.

The clinical diagnostic evaluation report shall set forth whether the ~~licensee~~ Respondent has a substance abuse problem, is a threat to ~~himself/herself~~ the Respondent or others, and provide recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the ~~licensee's~~ Respondent's rehabilitation and safe practice. If the evaluator determines during the evaluation process that ~~a licensee~~ the Respondent is a threat to ~~himself/herself~~ the Respondent or others, the evaluator shall notify the Board within 24 hours of such a determination.

Any time Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent shall cease practice for a minimum of 30 days pending the results of the evaluation. During such time, Respondent shall submit to random drug testing at a minimum of 2 times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within 10 days from the date the evaluation is complete, unless an extension, not to exceed 30 days, is granted to the evaluator by the Board.

Respondent shall not return to practice until the Board determines that

~~he/she~~ Respondent is able to safely practice either full-time or part-time and has had at least 30 days of negative drug test results. In deciding what, if any work limitations will be placed on a license, the Board will consider the factors set forth in ~~SACC~~ the Substance Abuse Coordination Committee's (SACC) Standard No. 6. Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation. If a license is restricted to less than full-time practice, before requesting a modification to work full time, Respondent shall meet the criteria found in SACC Standard No. 11.

Failure to undergo a clinical diagnostic evaluation when ordered to do so shall subject Respondent's license to further disciplinary action.

30-29. GROUP MEETINGS WITH QUALIFIED FACILITATOR

Upon recommendation of the clinical evaluator and/or determination by the Board, Respondent shall participate in group support meetings led by a facilitator who meets the following qualifications and requirements:

The meeting facilitator must have a minimum of 3 years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the State or other nationally certified organization(s).

The meeting facilitator must not have a financial, personal, or business relationship with Respondent within the last 5 years.

The meeting facilitator shall provide to the Board a signed document showing Respondent's name, the group name, the dates and location of the meetings, Respondent's attendance, and Respondent's level of participation and progress.

The meeting facilitator shall report within 24 hours any unexcused absence to the Board.

31-30. WORKSITE MONITOR

Respondent shall submit the name of a proposed worksite monitor within 30 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding Respondent and the worksite monitor's

requirements and reporting responsibilities as specified in Standard 7 of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (~~April 2011~~March 2019) established by the Substance Abuse Coordination Committee. If the worksite monitor terminates the agreement with Respondent and/or the Board, Respondent shall not practice until another worksite monitor is approved in writing by the Board.

Revised ~~6/20/11~~May 18, 2023; Effective ~~12/29/12~~OAL Insert effective date)

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
1. Unprofessional Conduct	2878(a)	4521(a)	Revocation	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14 *Other Conditions	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14
2. Incompetence and/or Gross Negligence	2878(a)(1)	4521(a)(1)	Revocation	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14 *Other Conditions	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14
3. Conviction of Practicing Medicine	2878(a)(2)	4521(a)(2)	Revocation	— <u>Revocation, Stayed 5 Years Probation Standard Conditions 1-14</u> *Restricted Practice 24	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14 *Restricted Practice 24
4. False or Misleading Advertising	2878(a)(3)	4521(a)(3)	Revocation	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14
5. Excessive Force, Mistreatment or Abuse of Any Patient	2878(a)(4)	4521(i)	Revocation	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14 *Restricted Practice 24 *Other Conditions	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14 * Restricted Practice 24 *Other Conditions
6. Failure to Maintain Confidentiality of Patient Medical Information	2878(a)(5)	4521(k)	Revocation	Revocation, <u>Stayed</u> : 3 Years Probation Standard Conditions 1-14	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14
7. Failure to Report Commission of Act Prohibited by Section	2878(a)(6)	4521(l)	Revocation	Revocation, <u>Stayed</u> : 3 Years Standard Conditions 1-14	Revocation, <u>Stayed</u> : 2 Years Probation Standard Conditions 1-14

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
8. Procuring a License by Fraud or Misrepresentation	2878(b)	4521(b)			Revocation
9. Assisting Wwith Criminal Abortion	2878(c)	4521(c)	Revocation	--- <u>Revocation, Stayed 5 years Probation Standard Conditions 1-14</u> *Other conditions	Revocation, <u>Stayed: 3 Years Probation Standard Conditions 1-14</u>
10. Violating Terms of Licensing Chapter	2878(d)	4521(d)	Revocation	— <u>Revocation, Stayed 5 years Probation Standard Conditions 1-14</u> *Other conditions	Revocation, <u>Stayed: 3 Years Probation Standard Conditions 1-14</u> *Other Conditions
11. Making False Statement on Application for Initial License	2878(e)	4521(e)	Revocation or Denial of License	— <u>Revocation, Stayed 5 years Probation Standard Conditions 1-14</u> *Other conditions	Revocation, <u>Stayed: 3 Years Probation Standard Conditions 1-14</u> *Other Conditions
12. CONVICTION Substantially Related to Functions of License (Non-Drug Related)	2878(f)	4521(f)	Revocation or Denial of License	Revocation, <u>Stayed: 3 Years Probation Standard Conditions 1-14</u> *Restricted Practice 24 *Other Conditions	Revocation, <u>Stayed: 2 Years Probation Standard Conditions 1-14</u> *Other Conditions
13. Impersonating or Acting as Proxy for Applicant on Exams	2878(g)	4521(g)	---	---	Revocation or Denial of License

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
14. Impersonating a Licensee or Permitting Others to Use License	2878(h)	4521 (h)	Revocation or Denial of License	--- <u>Revocation, Stayed 5 Years Probation Standard Conditions 1-14</u> <u>*Other Conditions</u>	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 <u>*Other Conditions</u>
15. Assisting Physician to Violate Medical Practice Act	2878(i)	4521 (j)	Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 <u>*Restricted Practice 24</u>	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14
16. Commission of Any Act Involving Dishonesty	2878(j)	4521 (n)	Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 <u>*Restricted Practice 24</u> <u>*Other Conditions</u>	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14
17. Sexual Misconduct Related to Practice	2878(k)	4521 (m)	Revocation	Revocation, Stayed: 35 Years Probation Standard Conditions 1-14 <u>17 Mental Health Evaluation</u> <u>Therapeutic Sessions 18</u> <u>*Restricted Practice 24</u> <u>*Other Conditions</u>	Revocation, Stayed: 3 2 Years Probation Standard Conditions 1-14 <u>Mental Health Evaluation 17</u> <u>*Other Conditions</u> <u>Revocation (Required by 16 C.C.R. §2524(c) [VN] and 16 C.C.R. §2579.10(c) [PT])</u>
18. Sexual Misconduct Related to Practice	2878(k)	4521 (m)	---	---	Revocation (Required by 16 C.C.R. §2524(c) [VN] and 16 C.C.R. §2579.10(c) [PT])

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
<u>189</u>. Knowing Failure to Follow Infection Control Guidelines	2878(l)	4521(o)	Revocation	Revocation, Stayed : 3 Years Probation Standard Conditions 1-14 *Restricted Practice 24	Revocation, Stayed : 2 Years Probation Standard Conditions 1-14
<u>2019</u>. Failure to Report Known Violations	2878.1	4521.2	Revocation	Revocation, Stayed : 3 Years Probation Standard Conditions 1-14	Revocation, Stayed : 2 Years Probation Standard Conditions 1-14
<u>210</u>. Illegal Possession, Prescribing, Self-Administration of Controlled Substances or Dangerous Drugs	2878.5(a)	4521(a)(4)	Revocation	Revocation, Stayed : 3 Years Probation Standard Conditions 1-14 Addictive Behavior Support Groups 20 Abstain from Drugs Controlled Substances and Alcohol 21 Abstain from Alcohol 22 Drug Screens Submit to Drug testing 25 Positive Drug Tests 26 Major/Minor Violations 27 *Mental Health Evaluation 17 *Other Conditions	Revocation, Stayed : 2 Years Probation Standard Conditions 1-14 Addictive Behavior Support Groups 20 Abstain from Drugs Controlled Substances and Alcohol 21 Abstain from Alcohol 22 Drug Screens Submit to Drug testing 25 Positive Drug Tests 26 Major/Minor Violations 27 *Other Conditions

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
221. Illegal Use of Drugs/Alcohol Posing Danger to Public & Impairs Ability to Practice	2878.5(b)	4521(a)(5)	Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 Exam by Physician <u>Physical Examination</u> 16 <u>Addictive Behavior Support Groups</u> 20 Abstain from Drugs <u>Controlled Substances and Alcohol</u> 21 Abstain from Alcohol 22 Restricted Practice 24 <u>Submit to Drug Screens Testing</u> 25 Positive Drug Tests 26 Major/Minor Violations 27 *Other Conditions	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14 <u>Addictive Behavior Support Groups</u> 20 Abstain from Drugs <u>Controlled Substances and Alcohol</u> 21 Abstain from Alcohol 22 <u>Submit to Drug Screens Testing</u> 25 Positive Drug Tests 26 Major/Minor Violations 27 *Other Conditions

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
<p>232. CONVICTION of Drug or Alcohol Related Crimes</p>	<p>2878.5(c)</p>	<p>4521(a)(6)</p>	<p>Revocation</p>	<p>Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 <u>Addictive Behavior</u> <u>Support Groups</u> 20 <u>Abstain from Drugs Controlled Substances and Alcohol</u> 21 <u>Abstain from Alcohol</u> 22 <u>Restricted Practice</u> 24 <u>Submit to Drug Screens Testing</u> 25 <u>Positive Drug Tests</u> 26 <u>Major/Minor Violations</u> 27 *Other Conditions</p>	<p>Revocation, Stayed: 2 Years Probation Standard Conditions 1-14 <u>Addictive Behavior</u> <u>Support Groups</u> 20 <u>Abstain from Drugs Controlled Substances and Alcohol</u> 21 <u>Abstain from Alcohol</u> 22 <u>Submit to Drug Screens Testing</u> 25 <u>Positive Drug Tests</u> 26 <u>Major/Minor Violations</u> 27 *Other Conditions</p>

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ December 29, 2023 AL insert
effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
243. Confinement or Committal for Addiction	2878.5(d)	4521(a)(7)	Revocation	Revocation, . Stayed: 3 Years Probation Standard Conditions 1-14 Exam by Physician Physical Exam 16 Addictive Behavior Support Groups 20 Abstain from Drugs Controlled Substances and Alcohol 21 Abstain from Alcohol 22 Submit to Drug Screens Testing 25 Positive Drug Tests 26 Major/Minor Violations 27 *Psychiatric/Psycholo gical Evaluation 17 *Psychotherapy 18 *Rehab Program 19 *Restricted Practice 24 *Diagnostic Evaluation 28 *Qualified Group Meetings 29 *Worksite Monitor 30 *Other Conditions	Revocation, . Stayed: 2 Years Probation Standard Conditions 1-14 Addictive Behavior Support Groups 20 Abstain from Drugs Controlled Substances and Alcohol 21 Abstain from Alcohol 22 Submit to Drug Screens Testing 25 Positive Drug Tests 26 Major/Minor Violations 27 *Other Conditions

VIOLATIONS & RECOMMENDED DISCIPLINARY ACTIONS

(Revised ~~June 20, 2011~~ May 18, 2023; Effective ~~December 29, 2012~~ OAL insert effective date)

Disciplinary Violations	VN Program B&P Code	PT Program B&P Code	Maximum Discipline	Intermediate Discipline	Minimum Discipline
254. Falsify, Make Incorrect, Inconsistent or Unintelligible Entries Pertaining to Drugs	2878.5(e)	4521(a)(8)	— Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 * <u>Abstain from Controlled Substances and Alcohol</u> 21 * <u>Submit to Drug Testing</u> 25 *Positive Drug Tests 26 *Major/Minor Violations 27 *Other Conditions	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14 *Other Conditions
265. Disciplinary Action by Another State, Agency or Licensing Board	2878.8	4521.6(a)	Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 *Other Conditions	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14
276. Failure to Report Child, Elder or Dependent Adult Abuse (Unprofessional Conduct)	2878(a) CCR 16 2520.1 2520.2 2520.3	4521(a) CCR 16 2577.2 2577.3 2577.4	Revocation	Revocation, Stayed: 3 Years Probation Standard Conditions 1-14 *Other Conditions	Revocation, Stayed: 2 Years Probation Standard Conditions 1-14 *Other Conditions

Important Notes:

- Conditions of Probation 1 through 14 are standard conditions of probation. The Board requests these standard conditions of probation be imposed on all disciplinary cases resulting in probation.
- Conditions of Probation 15 through 24 are optional conditions of probation, which address specific circumstances of a case.
- Conditions of Probation 25 through 27 must be imposed as conditions of probation for all substance-abusing licensees.
- Conditions of Probation 28 through 30 must be considered for all substance-abusing licensees and, if the circumstances of the case warrant, shall be imposed as probation conditions.

If individual circumstances exist which justify omissions or deviations from these guidelines, the Board requests that this information be duly noted in the Proposed Decision issued by the Administrative Law Judge hearing the case. This will help the Board to better evaluate the Proposed Decision and to make an official Decision which accurately reflects the facts of each specific disciplinary matter.

* Other Conditions of Probation may be added based upon the underlying cause of discipline.

(Revised (May 18, 2023) Effective 12/29/12 [OAL insert effective date])

EVIDENCE IN AGGRAVATION OF PENALTY

The following are among aggravating circumstances to be considered by ALJs in providing for penalties in proposed decisions:

1. Respondent fails to take full responsibility for their actions.
2. Evidence that the violation was knowingly committed and/or was premeditated.

3. If the violation was committed against a vulnerable person, including, the developmentally delayed, those with cognitive impairments, elderly, children, an incarcerated person, or those whose physical limitations made the violation easier to commit.
4. If the violation was a physical or sexual assault against a vulnerable person, as specified above.
5. Respondent violated the rules and procedures of a secure detention facility, state hospital, prison, juvenile hall or jail, such as the smuggling of phones, drugs, or other prohibited items to persons in custody.
6. Respondent has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
7. Respondent's actions resulted in financial damage to their patients or other consumers. The amount of loss may be an additional aggravating factor.
8. Violation of Board probation.
9. Commission of conduct constituting unlicensed activity after the surrender or revocation of the Respondent's license.
10. Evidence that the respondent has not cooperated with the Board's investigation.
11. Duration of violation(s).
12. Evidence that the Respondent knew or should have known that their actions could harm their patient or other consumers.

13. Evidence that the Respondent took advantage of their patient for personal gain, especially if the Respondent was able to take advantage due to the age, or, lack of sophistication, understanding or knowledge of the patient.

EVIDENCE IN MITIGATION OF PENALTY

The following are among mitigating circumstances that may be taken into account by ALJs in providing for penalties in proposed decisions:

1. Convincing evidence of rehabilitation consistent with criteria in CCR sections 2522 or 2579, as applicable.
2. Demonstration of remorse by the Respondent.
3. Demonstration of corrective action or plan to prevent recurrence.
4. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
5. If the violation involved the conduct of multiple parties, the relative degree of culpability of the Respondent should be considered.

REHABILITATION EVIDENCE

The following are examples of types of evidence which the licensee/applicant (Respondent) may submit to the Board to demonstrate their rehabilitative efforts and competency and the Board will review the evidence submitted:

1. Recent, dated, written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the Respondent's current competence in the practice relevant to the disciplinary proceeding, including the period of time and capacity in which the person

worked with the Respondent. These statements or performance evaluations should include an acknowledgement of the allegations in the Accusation or Statement of Issues, to ensure that the evaluator has a clear understanding of the issues. Such reports must be signed under penalty of perjury.

2. Recent, dated, letters from counselors regarding the Respondent's participation in a rehabilitation or recovery program, which should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery, and the psychologist's basis for determining rehabilitation.
3. Recent, dated letters describing the Respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.) from their sponsor.
4. Recent, dated, laboratory analyses or drug screen reports, confirming Respondent's abstention from drugs and alcohol.
5. Recent, dated, physical examination/ or assessment report(s) by a licensed physician, confirming the absence of any physical impairment that would prohibit the Respondent from practicing safely.
6. Recent, dated, letters from probation or parole officers regarding the Respondent's participation in and/or compliance with terms and conditions of probation or parole, which should include at least a description of the terms and conditions, and the officer's basis for determining compliance.
7. Recent, dated, letters from persons familiar with Respondent in either a personal or professional capacity regarding their knowledge of: the Respondent's character; the respondent's rehabilitation, if any; the conduct of which the Respondent is accused; or any other pertinent facts that would enable the Board to better decide the case. Such letters must be signed under penalty of perjury.
8. Recent, dated completion certificates for education courses related to the grounds for discipline or denial in the Accusation or Statement of Issues.

9. Any other information that Respondent would like to submit that shows Respondent has worked to correct any unprofessional conduct or deficiencies charged in the Accusation or Statement of Issues.

Any evidence submitted to the Board will be subject to verification by Board staff.

MODEL ORDERS

A. Licensee

Revocation of License

[Insert License Type] License No. _____, issued to respondent _____, is revoked.

Respondent shall relinquish and forward or deliver their license to practice [insert: vocational nursing or as a psychiatric technician] and wall certificate to the Board within ten (10) days of the effective date of this Decision. Respondent may not reapply or petition the Board for reinstatement of their revoked license for [insert applicable time period of one year or three years as set forth in BPC sections 2878.7 (Vocational Nurses) or 4524 (Psychiatric Technicians)] from the effective date of this Decision.

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$ _____ within thirty (30) days of the effective date of this Decision.

Option: As a condition precedent to reinstatement of their revoked license, Respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$ _____. Said amount shall be paid in full prior to the reinstatement of their license unless otherwise ordered by the Board.

Revocation Stayed and Licensee Placed on Probation

[Insert license type here] License No. _____, issued to respondent _____, is revoked; however, the revocation is stayed and Respondent is placed on probation for _____ years on the following terms and conditions:

Public Repeval

[Insert license type here] License No. _____, issued to Respondent _____, is publicly reprovod. This reprovod constitutes disciplinary action by the Board and shall become a part of Respondent's license history with the Board.

Surrender of License in Lieu of Revocation

Respondent _____ surrenders [Insert license type here] License No. _____ as of the effective date of this Decision. Respondent shall relinquish and forward or deliver their license to practice [insert "vocational nursing" or "as a psychiatric technician" here] and wall certificate to the Board within ten (10) days of the effective date of this Decision.

The surrender of Respondent's license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This Decision constitutes disciplinary action by the Board and shall become a part of Respondent's license history with the Board.

B. Petition for Reinstatement

Grant Petition with No Restrictions on License

The petition for reinstatement filed by petitioner _____ is hereby granted, and petitioner's [insert license type here] license shall be fully restored.

Grant Petition and Place Licensee on Probation

The petition for reinstatement filed by petitioner _____ is hereby granted, and petitioner's [insert license type here] license shall be reinstated and immediately revoked; however, the revocation shall be stayed and the petitioner shall be placed on probation for a period of _____ years on the following terms and conditions:

Grant Petition and Place Licensee on Probation After Completion of Conditions Precedent

The petition for reinstatement filed by petitioner _____ is hereby granted, and petitioner's [Insert license type here] license shall be fully reinstated upon completion of the following conditions precedent (examples would be: paying restitution, cost reimbursement, completion of CE, physical examination, completion of rehabilitation program, take and pass licensure examination):

Upon completion of the conditions precedent above, and satisfaction of all statutory and regulatory requirements for issuance of a license, petitioner's [Insert license type here] license shall be reinstated and immediately revoked; however, the revocation shall be stayed, and petitioner shall be placed on probation for a period of _____ years on the following terms and conditions (list standard and applicable optional conditions of probation):

Deny Petition

The petition for reinstatement filed by petitioner _____ is hereby denied.

C. Petition to Revoke Probation

Revocation of Probation

[Insert license type here] License No. _____, issued to Respondent _____, is revoked. Petitioner is not eligible to apply for reinstatement for [[insert applicable time period of either one or three years as set forth in

BPC sections 2878.7 (Vocational Nurses) or 4524 (Psychiatric Technicians)]] from the effective date of this decision.

Extension of Probation

[Insert license type here] License No. _____, issued to Respondent _____, is revoked; however, the revocation is stayed, and Respondent is placed on probation for an additional _____ year(s) on the following terms and conditions:

D. Applicant

(In cases where a Statement of Issues has been filed)

Grant Application with No Restrictions on License

The application filed by Respondent _____ for initial licensure is hereby granted, and a [Insert license type here]'s license shall be issued to Respondent upon successful completion of all licensing requirements including payment of all fees.

Grant Application and Place Licensee on Probation

The application filed by Respondent _____ for initial licensure is hereby granted, and a [Insert license type here]'s license shall be issued to Respondent upon successful completion of all licensing requirements, including payment of all fees. However, the license shall be immediately revoked, the revocation shall be stayed, and Respondent shall be placed on probation for _____ years on the following terms and conditions:

Grant Application and Place Licensee on Probation After Completion of Conditions Precedent

The application filed by Respondent _____ for initial licensure is hereby granted, and a [Insert license type here]'s license shall be issued to Respondent upon the following conditions precedent (examples would be:

paying restitution, cost reimbursement, completion of CE, completion of rehabilitation program, take and pass licensure examination):

Upon completion of the conditions precedent above and successful completion of all licensing requirements, including payment of all fees, Respondent shall be issued a [Insert license type here]'s license. However, the license shall be immediately revoked, the revocation shall be stayed, and Respondent shall be placed on probation for _____ years on the following terms and conditions (list standard and applicable optional conditions of probation):

Deny Application

The application filed by Respondent _____ for initial licensure is hereby denied.

Options for revising Optional Term No. 21:

“Abstain from Controlled Substances and Alcohol”:

Option 1: (Retain Current Policy to Allow Limited Use of Controlled Substances or Dangerous Drugs While on Probation Only if Lawfully Prescribed or Ordered with New Suggested Reporting Requirements):

21. ABSTAIN FROM CONTROLLED SUBSTANCES AND ALCOHOL

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Business and Professions Code Sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed or ordered by a licensed practitioner for a bona fide illness or medical condition.

By the effective date of this decision, and thereafter within 15 days of the date of Respondent being prescribed or receiving a patient-specific drug order for a dangerous drug or controlled substance, Respondent shall provide documentation to the Board or its designee of any such prescription or drug order by mail, email, facsimile or in-person at the Board’s offices.

“Documentation” shall include a written copy of the prescription or drug order and a report by the prescriber identifying the following:

- (A) the prescriber’s name,
- (B) the prescriber’s license type and number,
- (C) the medication,
- (D) the dosage,
- (E) the date the medication was prescribed,
- (F) Respondent’s prognosis,
- (G) the date the medication will no longer be required, and,
- (H) the effect on Respondent’s recovery, if any.

If any substance considered addictive has been prescribed or ordered, the prescriber shall provide, as part of documentation, a statement regarding whether Respondent is safe to practice as a [insert license type here] while on

August 25, 2023, BVNPT Agenda Item 9. B.III: Consideration of Changes to Previously Approved Text and Initiation of a Rulemaking to Amend Title 16 CCR sections 2524 and 2579.10 (Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees

or taking the substance(s) and identify whether there is a plan for the time-limited use of any such substances.

By the effective date of this decision, and thereafter within 15 days of the date of being prescribed or receiving a patient-specific drug order for a dangerous drug or controlled substance, Respondent shall provide the Board with a signed and dated medical release covering the entire probation period authorizing the prescriber to communicate with and respond to inquiries made by the Board or its designee regarding their written report and Respondent's ability to practice safely while taking the medication.

Respondent shall also provide a current list of prescribed medication(s) with the prescriber's name, license type and number, address, and telephone number with each quarterly report submitted to the Board as provided in the "Submission of Written Reports" section of this probationary order.

By the effective date of the decision, Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions or drug orders for Respondent for dangerous drugs, or controlled substances. Once a coordinating physician, nurse practitioner or physician assistant has been identified, Respondent shall immediately provide a copy of the Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order to the physician, nurse practitioner or physician assistant. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition.

Respondent shall also completely abstain from the use of alcoholic beverages and products containing alcohol, including over the counter medications, foods containing alcohol, mouthwashes, "non-alcoholic" beers, and fermented beverages.

[Optional: The Board shall require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.]

[Note: If this term is included in the probationary order, then Term No. 22 "Submit to Drug and Alcohol Testing" must also be included to ensure abstention occurs in compliance with this condition of probation.]

Option 2: (Allow Use of Medicinal Marijuana and Lawfully Prescribed Controlled Substances While on Probation Under Specified Conditions):

August 25, 2023, BVNPT Agenda Item 9. B.III: Consideration of Changes to Previously Approved Text and Initiation of a Rulemaking to Amend Title 16 CCR sections 2524 and 2579.10 (Disciplinary Guidelines and Uniform Standards Regarding Substance-Abusing Licensees

21. ABSTAIN FROM CONTROLLED SUBSTANCES AND ALCOHOL

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Business and Professions Code Sections 4021 and 4022 of the Business and Professions Code (“drugs”), except when lawfully prescribed or ordered by a licensed practitioner or authorized under a recommendation from a physician to use marijuana pursuant to Health and Safety Code section 11362.5 (“medicinal marijuana”) for a bona fide illness or medical condition.

By the effective date of this decision, and thereafter within 15 days of the date of being prescribed or receiving a patient-specific drug order for a drug or receiving a recommendation to use medicinal marijuana, Respondent shall provide documentation to the Board or its designee of any prescription, drug order or medicinal marijuana recommendation by mail, email, facsimile or in-person at the Board’s offices.

“Documentation” shall include a written copy of the prescription or drug order by a prescriber or a medicinal marijuana recommendation by a physician, and a report by the prescriber identifying all of the following:

- (A) the prescriber or recommending physician’s name,
- (B) the license number and type of the prescriber or recommending physician
- (C) the medication prescribed, ordered or recommended,
- (D) dosage (for prescribed or ordered drugs),
- (E) the date the medication was prescribed or recommended,
- (F) Respondent’s prognosis,
- (G) the date the medication will no longer be required, and,
- (H) the effect on Respondent’s recovery, if any.

If any substance considered addictive has been prescribed or when medicinal marijuana has been recommended, the prescriber or recommending physician shall provide, as part of documentation, a statement regarding whether Respondent is safe to practice as a [insert license type here] while on or taking the medication and identify whether there is a plan for the time-limited use of any such drug.

By the effective date of this decision, and thereafter within 15 days of the date of being prescribed a drug, issued a drug order or receiving a recommendation for medicinal marijuana, Respondent shall provide the Board with a signed and dated medical release covering the entire probation period authorizing the

prescriber (or physician if the drug is medicinal marijuana) to communicate with and respond to inquiries made by the Board or its designee regarding their written report and Respondent's ability to practice safely while taking the prescribed, ordered or recommended drug.

Respondent shall also provide a current list of medications that have been prescribed, ordered, or recommended for Respondent by a healthcare practitioner with the issuing healthcare practitioner's name, license type and number, address, and telephone number with each quarterly report submitted to the Board as provided in the "Submission of Written Reports" section of this probationary order.

By the effective date of the decision, Respondent shall identify for the Board a single physician who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for drugs or any recommendations for medicinal marijuana. Once a coordinating physician has been identified, Respondent shall immediately provide a copy of the Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order to the physician. The coordinating physician shall report to the Board on a quarterly basis Respondent's compliance with this condition.

Respondent shall also completely abstain from the use of alcoholic beverages and products containing alcohol, including over the counter medications, foods containing alcohol, mouthwashes, "non-alcoholic" beers, and fermented beverages.

[Optional: The Board shall require the single coordinating physician to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.]

[Note: If this term is included in the probationary order, then Term No. 22 "Submit to Drug and Alcohol Testing" must also be included to ensure abstention occurs in compliance with this condition of probation.]