

# Board of Vocational Nursing and Psychiatric Technicians

## PROPOSED AMENDMENTS SPECIFIC LANGUAGE

### VOCATIONAL NURSING

Amend and repeal the California Code of Regulations, Title 16, Division 25, Chapter 1 as follows:

**Amend Section §2522. ~~Criteria for Rehabilitation~~ Criteria.**

(a) When considering the denial of a license under Section 480 of the Business and Professions Code, the suspension or revocation of a license on the ground that a licensed vocational nurse has been convicted of a crime, or a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Board in evaluating the rehabilitation of ~~the applicant~~ an individual and his or her present eligibility for a license, will consider the following criteria:

- ~~(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.~~
- ~~(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.~~
- ~~(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).~~
- ~~(4) The extent to which the applicant has complied.~~
- (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.

- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and/or variety of current violations.
- (8) Mitigation evidence.
- (9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- (10) Time passed since the act(s) or offense(s) occurred.
- (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.
- (12) Cooperation with the Board and other law enforcement or regulatory agencies.
- (13) Other rehabilitation evidence.

**Repeal Section §2522.5 Rehabilitation Criteria for Suspensions or Revocations.**

~~(a) When considering the suspension or revocation of a license on the ground that a licensed vocational nurse has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his eligibility for a license, will consider the following criteria:~~

- ~~(1) Nature and severity of the act(s) or offense(s).~~
- ~~(2) Total criminal record.~~
- ~~(3) The time that has elapsed since commission of the act(s) or offense(s).~~
- ~~(4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.~~

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

~~(6) Evidence, if any, or rehabilitation submitted by the licensee.~~

~~(b) Petition for Reinstatement. When considering a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in Section 2522 of this article.~~

~~Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 4530 and 4531, Business and Professions Code.~~

#### **Amend Section §2524. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code ~~§~~section 11400 et seq.) the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines", (~~Rev. 1/1/2000~~ Rev. 6/19/07), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard ~~terms~~ 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 factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 2854, Business and Professions Code; and Section 11425.50(e), Government Code. Reference: Sections 2875, 2876 and 2878, Business and Professions Code; and Section 11425.50(e), Government Code.

# Board of Vocational Nursing and Psychiatric Technicians

## PROPOSED AMENDMENTS SPECIFIC LANGUAGE

### Psychiatric Technicians

Amend and repeal the California Code of Regulations, Title 16, Division 25, Chapter 2 as follows:

#### **Amend Section §2579. ~~Criteria for Rehabilitation~~ Criteria.**

(a) When considering the denial of a license under Section 480 of the Business and Professions Code, the suspension or revocation of a license on the ground that a licensed vocational nurse has been convicted of a crime, or a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Board, in evaluating the rehabilitation of ~~the applicant~~ an individual and his or her present eligibility for a license, will consider the following criteria:

- ~~(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.~~
- ~~(b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.~~
- ~~(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).~~
- ~~(d) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.~~
- ~~(e) Evidence, if any, or rehabilitation submitted by the applicant.~~

- (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.
- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and/or variety of current violations.
- (8) Mitigation evidence.
- (9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- (10) Time passed since the act(s) or offense(s) occurred.
- (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.
- (12) Cooperation with the Board and other law enforcement or regulatory agencies.
- (13) Other rehabilitation evidence.

Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 488 and 492, Business and Professions Code.

### **Repeal Section §2579.1 Rehabilitation Criteria for Suspensions or Revocations.**

~~(a) When considering the suspension or revocation of a license on the ground that a psychiatric technician has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his eligibility for a license will consider the following criteria:~~

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

~~(2) Total criminal record.~~

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

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

~~(5) If applicable, evidence of expungement pursuant to Section 1203.4 of the Penal Code.~~

~~(b) Petition for Reinstatement. When considering a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in Section 2579 of this article.~~

~~Note: Authority cited: Section 4504, Business and Professions Code. Reference: Sections 475, 480, 490, 4520, 4521 and 4523, Business and Professions Code.~~

### **Amend Section 2579.10. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code ~~§~~Section 11400 et seq.) the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines", (~~Rev. 1/1/2000~~ Rev. 6/19/07), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard ~~terms~~ 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 factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 4504, Business and Professions Code; and Section 11425.50(e), Government Code. Reference: Sections 4520 and 4521, Business and Professions Code; and Section 11425.50(e), Government Code.