

**THE BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS**

AVAILABILITY OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board), has proposed modifications to the text of Vocational Nursing Rules and Regulations sections 2522 and 2524, and Psychiatric Technicians Rules and Regulations sections 2579 and 2579.10 of Division 25, of Title 16 of the California Code of Regulations. A copy of the modified text is enclosed. Any person who wishes to comment on the proposed modifications may do so by submitting written comments postmarked beginning March 10, 2008 and ending March 24, 2008, to the person indicated in this Notice.

***Please note:** Please focus any comments on the modifications shown in the enclosed language. Other comments may be provided, however, the Board need not and may not respond to comments about previously noticed aspects of the proposed regulations.*

Address written comments to:

Michele Hedding, Associate Governmental Program Analyst
Board of Vocational Nursing and Psychiatric Technicians
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
(916) 263-7848

All written comments received (or postmarked) by March 24, 2008, which pertain to the modified text will be reviewed and responded to by Board staff as part of the compilation of the rulemaking file.

Dated: March 7, 2008

Michele Hedding
Associate Governmental Program Analyst
Board of Vocational Nursing and
Psychiatric Technicians

**Board of Vocational Nursing and Psychiatric Technicians
Modifications of Proposed Regulatory Language**

Changes to the originally proposed language are shown by double underline for new text, underline with strikethrough for deleted text and bold for restored text.

<p style="text-align: center;">Proposed Vocational Nursing Language</p>	<p style="text-align: center;">Modified Proposed Language</p>
<p>Section §2522. Criteria for Rehabilitation <u>Criteria</u>.</p> <p>(a) When considering the denial of a license under Section 480 of the Business and Professions Code, <u>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,</u> the Board in evaluating the rehabilitation of the applicant <u>an individual</u> and his or her present eligibility for a license, will consider the following criteria:</p> <p>(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.</p> <p>(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.</p> <p>(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).</p> <p>(4) The extent to which the applicant has complied.</p>	<p>Section §2522. Criteria for Rehabilitation <u>Criteria</u>.</p> <p>(a) When considering <u>a</u> the denial of a license under Section 480 of the Business and Professions Code, <u>b</u> the suspension or revocation of a license on the ground that a <u>licensed vocational nurse licensee</u> has been convicted of a crime, or <u>c</u> a petition for reinstatement of a license under the provisions of Section 11522 <u>22787.7</u> of the Government <u>Business and Professions</u> Code, the Board in evaluating the rehabilitation of the applicant <u>an individual</u> and his or her present eligibility for a license, will consider the following criteria:</p> <p>(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.</p> <p>(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.</p> <p>(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).</p> <p>(4) The extent to which the applicant has complied.</p>

(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.

(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: Sections 482 and 2854, Business and Professions Code. Reference: Sections 480, 482, 488, 490, 492, 2876, 2878, and 2878.7, Business and Professions Code.

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. 4/1/2000~~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.

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. 4/1/2000~~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.

Proposed Psychiatric Technicians Language

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

Modified Proposed Language

Section §2579. ~~Criteria for Rehabilitation~~ Criteria.

(a) When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license on the ground that a licensed vocational nurse licensee has been convicted of a crime, or c) a petition for reinstatement of a license under the provisions of Section 11522 ~~11522~~4524 of the Government ~~Government~~ Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant an individual and his or her present eligibility for a

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.

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.

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.

(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: Sections 482 and 4504, Business and Professions Code. Reference: Sections 480, 482, 488, 490, 492, 4521, 4521.1, and 4524, Business and Professions Code.

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.

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(3/6/08)