

Title 16. Professional and Vocational Regulations
Division 13.8 Physician Assistant Board

Proposed Modified Language

Proposed amendments to the regulatory language are shown in underline for new text and ~~strikethrough~~ for deleted text

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double-strikethrough~~ for deleted text.

Amend Sections 1399.525, 1399.526, and 1399.527 in Article 2 of Division 13.8 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.525. Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to section 141 or division 1.5 (commencing with section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physician Assistant Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but are not limited to, the following:

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

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and,

(3) The nature and duties of a physician assistant.

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

~~(a)~~(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Medical Practice Act.

~~(b)~~(2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physician Assistant Practice Act or other state or federal laws governing the practice of physician assistants.

~~(c)~~(3) A conviction of child abuse.

~~(d)~~(4) Conviction as a sex offender.

~~(e)(5)~~ Any crime, professional misconduct, or act involving the sale, gift, administration, or furnishing of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the code.

~~(f)(6)~~ Conviction for assault and/or battery.

~~(g)(7)~~ Conviction of a crime involving lewd conduct.

~~(h)(8)~~ Conviction of a crime involving fiscal dishonesty.

~~(i)(9)~~ Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 481, ~~493~~, 2018 and 3510, Business and Professions Code.
Reference cited: Sections 141, 480, 481, 490, 493, 3527 and 3531, Business and Professions Code.

§ 1399.526. Rehabilitation Criteria for Denials and Reinstatements.

(a) When considering the denial of a license under section 480 of the code on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:

(1) the nature and gravity of the crime(s).

(2) the length(s) of the applicable parole or probation period(s).

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

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

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

~~(b) If subdivision (a) is inapplicable, the applicant has not completed the criminal sentence at issue without a violation of parole or probation, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 3527, 3530, or 3531 of the code, the board shall apply the following criteria in evaluating an applicant's rehabilitation: The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:~~

(1) The nature and ~~severity-gravity~~ of the ~~act(s)~~act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any ~~act(s)-conduct~~act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.621.5, professional misconduct, or crime(s) committed subsequent to the ~~conduct~~act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) under consideration as grounds for denial under section 480 or 3527 of the code.

(3) The time that has elapsed since commission of the ~~act(s)-conduct~~act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) referred to in subsection ~~(a)~~(b)(1) or (b)(2).

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

(5) Evidence, if any, of rehabilitation submitted by the applicant.

~~(b)~~(c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of section ~~41522~~3530 of the ~~Government~~Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

NOTE: Authority cited: Sections 481, 482, 2018 and 3510, Business and Professions Code.
Reference: Sections 480, 481, 482, 488, 493, 3527, 3530 and 3531, Business and Professions Code.

§ 1399.527. Rehabilitation Criteria for Suspensions and Revocations.

~~(a)~~(a)When considering the suspension or revocation of a license on the ground that a person holding a license under the Physician Assistant Practice Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation ~~and is presently fit for a license,~~ if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~in evaluating the rehabilitation of such person and his or her eligibility for a license shall consider the following criteria:~~

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

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

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

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

~~(b) If subdivision (a) is inapplicable, the licensee has not completed the criminal sentence at issue without a violation of parole or probation, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 3527, 3530, or 3531 of the code, the board shall apply the following criteria in evaluating a licensee's rehabilitation: The board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:~~

~~(a)(1) The nature and severity gravity of the act(s), disciplinary actions, unprofessional conduct, or offensecrime(s).~~

~~(b)(2) The total criminal record.~~

~~(c)(3) The time that has elapsed since commission of the act(s), disciplinary actions, unprofessional conduct, or offensecrime(s).~~

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

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

~~(e)(6) If applicable, evidence of expungementdismissal proceedings pursuant to section 1203.4 of the Penal Code.~~

~~(f)(7) Evidence, if any, of rehabilitation submitted by the licensee.~~

Note: Authority cited: Sections 481, 482, 2018 and 3510, Business and Professions Code.

Reference: Sections 141, 480, 482, 488, 493, 3527 and 3531, Business and Professions Code.