

**TITLE 16. DENTAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS**

**PROPOSED LANGUAGE**

Amend Sections 1019 and 1020 of Article 5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

**Section 1019. 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 dentist or dental auxiliary 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 dentist or dental auxiliary.

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

~~(a)~~(1) Any violation of Article 6, Chapter 1, Division 2 of the Code except Sections 651.4, 654 or 655.

~~(b)~~(2) Any violation of the provisions of Chapter 4, Division 2 of the Code.

Note: Authority cited: Sections 481 and 1614, Business and Professions Code.  
Reference cited: Sections 7.5, 141, 480, 481, 490, and 493, Business and Professions Code.

**Section 1020. Application Review and Criteria for Evaluating Rehabilitation.**

(a)(1) In addition to any other requirements for licensure, when considering the approval of an application, the Board or its designee may require an applicant to be examined by one or more physicians and surgeons or psychologists designated by the Board if it

appears that the applicant may be unable to safely practice due to mental illness or physical illness affecting competency. An applicant's failure to comply with the examination requirement shall render his or her application incomplete. The report of the examiners shall be made available to the applicant. The Board shall pay the full cost of such examination. If after receiving the report of evaluation, the Board determines that the applicant is unable to safely practice, the Board may deny the application, or may issue the applicant a license that is placed on probation with terms and conditions. If the Board issues a license on probation, the probationary order shall include an order that the license be revoked, stayed and placed on probation for the entire term of probation. In issuing a license on probation, the Board may consider any or all of the following terms and conditions:

(i) Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be written, oral, or both, and may be a practical or clinical examination or both, at the option of the Board;

(ii) Requiring the licensee to submit to a mental or physical examination, or psychotherapy during the term of probation under the terms and conditions provided for in the "Dental Board of California Disciplinary Guidelines With Model Language" revised 08/30/2010, incorporated by reference at Section 1018; or,

(iii) Restricting or limiting the extent, scope or type of practice of the licensee.

(2) If the Board determines, pursuant to proceedings conducted under this subdivision, that there is insufficient evidence to bring an action against the applicant, then all Board records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential. If no further proceedings are conducted to determine the applicant's fitness to practice during a period of five years from the date of the determination by the Board of the proceedings pursuant to this subdivision, then the Board shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the applicant by the Board, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the applicant pursuant to the provisions of Section 11507.6 of the Government Code.

(b) 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 shall consider the following criteria:

~~the Board in evaluating the rehabilitation of the applicant and his present eligibility for a license, will 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.

(c) If subsection (b) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (b), 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) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) or crime(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 Code.

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

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

(5) The criteria in subsection (b)(1)-(5), as applicable.

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

~~(e)~~(d) When considering the suspension or revocation of a license on the grounds of conviction of a crime, the Board shall consider whether the licensee made a showing of rehabilitation and is presently eligible 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, in evaluating the rehabilitation of such person and his present eligibility for a license will 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 modification.

(e) If subsection (d) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subsection (d), the board shall apply the following criteria in evaluating the licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

(1) The nature and ~~severity~~gravity of the act(s) or ~~offense~~crime(s);

(2) Total criminal record;

(3) The time that has elapsed since commission of the act(s) or ~~offense~~crime(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~~ dismissal proceedings pursuant to Section 1203.4 of the Penal Code;

(6) The criteria in subsection (d)(1)-(5), as applicable.

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

~~(d)~~(f) When considering a petition for reinstatement of a license, the Board shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subsection ~~(e)~~(e).

Note: Authority cited: Sections 482, and 1614, Business and Professions Code.  
Reference: Sections 7.5, 480, 482 and 820, Business and Professions Code; and  
Section 11519, Government Code.