

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

Order of Adoption California Code of Regulations Title 16. Professional and Vocational Regulations, Divisions 13.3 & 13.4.

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

Amend Section 1399.132 to read as follows:

§ 1399.132. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of a hearing aid dispenser's license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, or Sections 2533 and 2533.1 of the Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of a hearing aid dispenser if to a substantial degree it evidences present or potential unfitness of a hearing aid dispenser licensee to perform the functions authorized by his the license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to those involving 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.
- (3) The nature and duties of a licensee.

(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 or attempt to violate of the provisions of Sections 650, 651, 651.3 and 655.2 of the Code.
- (b) (2) Any violation or attempt to violate of the provisions of Chapter 7.5, Division 2 of the Business and Professions Code.
- (3) Conviction or act involving fiscal or commercial dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.
- (4) Conviction or act involving grand theft or embezzlement.
- (5) Conviction or act involving child abuse.
- (6) Conviction or act regarding elder abuse.
- (7) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.
- (8) Conviction or act involving lewd conduct or sexual impropriety.
- (9) Conviction or act involving assault, battery, or other violence.

(10) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

Note: Authority cited: Sections 493 and 2531.06, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

Amend Section 1399.133 to read as follows:

§ 1399.133. Criteria for Rehabilitation – Denials and Reinstatements.

(a) When considering the denial of a license or a temporary license under Section 480 of the Code, or the reinstatement of a license, on the ground that the applicant has been convicted of a crime, or when considering the reinstatement of a license, the Board shall consider whether the applicant made a showing of rehabilitation, 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 or her present eligibility for licensing, 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 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 2533 and 2533.1 of the Code, the Board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1) The nature and ~~severity~~ gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s), professional misconduct, or crimes(s) committed subsequent to the act(s), professional misconduct, 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), professional misconduct, or crime(s) referred to in subdivision (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 subdivision (a)(1)-(5), as applicable.

~~(5)~~ (6) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2531.06, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 490, 493, 2533 and 2533.1, Business and Professions Code.

Amend Section 1399.134 to read as follows:

§ 1399.134. Criteria for Rehabilitation - Suspensions and Revocations.

(a) When considering the suspension or revocation of a license or a temporary license on the grounds that the licensee has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation, 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: the Board, in evaluating the rehabilitation of such person and his present eligibility for a license or temporary 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.

(b) If the licensee has not completed the criminal sentence at issue without a violation of 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 2533 and 2533.1 of the Code, the Board shall apply the following criteria in evaluating a licensee's rehabilitation:

(1) The Nature and severity gravity of the act(s), disciplinary action(s), or offense(s) crime(s).

(2) The Total criminal record.

(3) Extent of The time that has elapsed since commission of the act(s), disciplinary actions(s), or offense(s) crime(s).

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

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

~~(5)~~ (6) If applicable, evidence of expungement dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6)~~ (7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482 and 2531.06, Business and Professions Code.
Reference: Sections 141, 475, 480, 482, 488, 490, 493, 2533 and 2533.1, Business and Professions Code.

Amend Section 1399.156.1 to read as follows:

§ 1399.156.1. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the eCode, or Sections 2533 and 2533.1 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 Act if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the function authorized by his or her the license or registration in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include but not be limited to those involving 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.
- (3) The nature and duties of a licensee.

(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 Act.
- (b) (2) Conviction of a crime involving fiscal or commercial dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.
- (3) Conviction or act involving grand theft or embezzlement.
- (4) Conviction or act involving child abuse.
- (5) Conviction or act regarding elder abuse.
- (6) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.
- (7) Conviction or act involving lewd conduct or sexual impropriety.
- (8) Conviction or act involving assault, battery, or other violence.
- (9) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

Note: Authority cited: Sections 481, 493 and 2531.95, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

Amend Section 1399.156.2 to read as follows:

§ 1399.156.2. Rehabilitation Criteria for Denials and Reinstatements.

(a) When considering the denial of a license or registration under Section 480 of the Code, or a petition for reinstatement under Section 11522 of the Government Code, on the ground that the applicant has been convicted of a crime, or when considering a petition for reinstatement under Section 11522 of the Government Code, the Board shall consider whether the applicant made a showing of rehabilitation, 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 or her 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.

(b) If 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 2533 and 2533.1 of the Code, the Board shall apply the following criteria in evaluating an applicant's rehabilitation:

(a) (1) The nature and severity gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(b) (2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(c) (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (1) or (2).

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

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

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.

Reference: Sections 475, 480, 481, 482, 488, 490, 493, 2533 and 2533.1, Business and Professions Code.

Amend Section 1399.156.3 to read as follows:

§ 1399.156.3. Rehabilitation Criteria for Suspensions or Revocations.

(a) When considering the suspension or revocation of a license on the grounds that a person holding a license or registration under the Act has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation, 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: the Board, in evaluating the rehabilitation of such person and his or her 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.

(b) If the licensee has not completed the criminal sentence at issue without a violation of 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 2533 and 2533.1 of the Code, the Board shall apply the following criteria in evaluating a licensee's rehabilitation:

(a) (1) The Nature and severity gravity of the act(s), disciplinary actions(s), or offense(s) crime(s).

(b) (2) The Total criminal record.

(c) (3) The time that has elapsed since commission of the act(s), disciplinary actions(s), or offense(s) crime(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 expungement dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(f) (7) Evidence, if any, of rehabilitation submitted by licensee, certificate or permit holder.

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.

Reference: Sections 141, 475, 480, 482, 488, 490, 493, 2533 and 2533.1, Business and Professions Code.