

Bureau of Security and Investigative Services
Proposed Regulatory Language

Amend Section 602 of Division 7 of Title 16 of the California Code of Regulations, to read as follows:

§ 602. Substantial Relationship Criteria.

(a) For purposes of denial, suspension, or revocation of a license of 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 licensee if to a substantial degree it evidences present or potential unfitness to perform the functions authorized by the license in a manner consistent with the public health, safety, and or welfare. Such crimes or acts shall include, but not be limited to, those delineated in Section 7561.1 or 7561.4 of the Business and Professions Code.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the bureau 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 the profession in which the applicant seeks licensure or in which the licensee is licensed.

Authority cited: Sections 481, 6980.7, 6980.71, 7501.6, 7515, 7574.05, 7581, and 7591.6, Business and Professions Code. Reference: Sections 141, 475, 480, 481, 490, 493, 6980.45, 6980.71, 6980.73, 6980.74, 7501.8, 7503.5, 7504.1, 7506.8, 7510.1, 7538, 7504.7, 7574.15, 7561.1, 7587.1, 7587.4, 7582.3, 7582.24, 7583.21, 7561.4, and 7591.10, and 7599.61, Business and Professions Code.

Amend Section 602.1 of Division 7 of Title 16 of the California Code of Regulations, to read as follows:

§ 602.1. Criteria for Evaluating Rehabilitation.

(a) When considering the denial, suspension, revocation, or reinstatement of a license for which application has been made under Chapter 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, ~~the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:~~ on the ground that the applicant, licensee, or petitioner was convicted of a crime, the bureau shall consider whether the applicant, licensee, or petitioner made a showing of rehabilitation and is presently eligible for a license if the applicant, licensee, or petitioner provides evidence of completion of the criminal sentence at issue without a violation of parole or probation. In making this determination, the bureau shall consider the following criteria:

(1) The nature and severity 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, licensee, or petitioner'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, or the bureau determines that the applicant, licensee, or petitioner did not make the showing of rehabilitation based on the criteria in subdivision (a), the bureau shall apply the following criteria in evaluating an applicant, licensee, or petitioner's rehabilitation. The bureau shall find that the applicant, licensee, or petitioner made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the bureau finds that the applicant, licensee, or petitioner is rehabilitated:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial, suspension, revocation, or reinstatement.

(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 (1) or (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, licensee, or petitioner.

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

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

(7) The criteria in subdivision (a)(1)-(5).

(8) The total criminal record.

Authority cited: Sections 482, 7501.6, 7515, 7574.05, 7581 and 7591.6, Business and Professions Code. Reference: Sections 141, 480, 481, 482, 488 and 490, 493, 6980.45, 6980.71, 6980.72, 6980.73, 6980.74, 7501.8, 7503.5, 7504.1, 7506.8, 7510.1, 7526.1, 7561.1, 7561.4, 7574.15, 7582.24, 7583.21, 7587.1, 7591.10, 7591.12, 7593.16, and 7599.61 Business and Professions Code.