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To: Board Members **Date:** August 15, 2023

From: Christy Berger
Regulatory Analyst

Subject: **Discussion and Possible Action to Initiate a Rulemaking Regarding Proposed Changes to Enforcement Regulations: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

The Policy and Advocacy Committee has recommended revisions to Title 16, California Code of Regulations (16 CCR) section 1888, including changes to the Board’s “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” and “Quarterly Report Form”, both of which are incorporated by reference into section 1888.

Background

The “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” provide standards and recommended guidelines for the use of those involved in the disciplinary process. This includes Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

The “Uniform Standards Related to Substance Abuse (“Uniform Standards”) is based on the Uniform Standards created in response to Senate Bill (SB) 1441 (Chapter 549, Statutes of 2008). This legislation required the Department of Consumer Affairs (DCA) to establish the Substance Abuse Coordination Committee and develop uniform standards for the purpose of addressing the increasing problem of substance use in the healthcare professions, and to address inconsistent standards among licensing boards. The Uniform Standards must be used when determining terms and conditions of probation for respondents with a violation involving alcohol or drugs.

The Disciplinary Guidelines portion of the document contains the following sections:

- Penalty Guidelines, which identify the range of penalties that may be imposed for different types of violations.
- Model Disciplinary Orders, which provide language for proposed terms and conditions of probation.
- Board Policies and Guidelines for various enforcement actions.

The Quarterly Report Form, which is incorporated by reference into the regulations, is required to be submitted by probationers to keep the Board informed of their compliance with all probationary terms and conditions.

Proposed Changes

Note: While this memo primarily discusses major changes, the attachments contain the entirety of the proposed changes.

****Page number references****

*The page numbers listed in this memo refer to the page number in the **bottom left corner** of the Uniform Standards/Disciplinary Guidelines document.*

I. UNIFORM STANDARDS

1. Amendments to CCR §1888 and Uniform Standards (Page 4): Violations Involving Abuse of Drugs or Alcohol; Quarterly Report Form

The proposed changes to the text of section 1888 (Attachment A) simply clarify that a violation involving drugs or alcohol is “presumed to be” a substance abuse violation (rather than just “is” a substance abuse violation). It further clarifies that if the licensee does not “successfully” rebut that presumption, then the Uniform Standards shall apply (rather than just “does not rebut” the presumption). This language, in addition to additional clarifying text, is also included as an introduction within the Uniform Standards document (Attachment C). The introduction also provides information about the application of the Uniform Standards, and addresses the need to also apply the Board’s standard and optional terms and conditions of probation to each case.

2. Uniform Standards (pages 4-14)

Note: Because this section is derived from the DCA Uniform Standards, there are limits to the types of changes that can be made to this portion of the document.

The recommended amendments to the Uniform Standards would do the following:

- Make various clarifying changes and nonsubstantive changes.
- Specify that tolling cannot be granted after a positive test result is received or if the respondent’s license has been suspended (page 13).
- Incorporate changes to the DCA Uniform Standards that were made in 2019 (page 13 - although not directly applicable to our licensees as they don’t typically have a supervisor on site).

II. PENALTY GUIDELINES

1. Add to Penalty Guidelines (Page 16): Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18

SB 1172 (Lieu, Chapter 835, Statutes of 2012) made it unprofessional conduct to engage in any sexual orientation change efforts with a patient under the age of 18. The recommended amendments would add minimum and maximum penalties for such a violation. The Committee recommended outright revocation of a license due to the severity of the impact that sexual orientation change efforts have on patients.

2. Add to Penalty Guidelines (Pages 32-33): Unprofessional Conduct Provisions Pertaining to Records, Reporting and Investigations

The Board added four unprofessional conduct provisions via regulation based on direction from DCA's Consumer Protection Enforcement Initiative, which became effective July 1, 2013 and pertain to Board investigations. They include failure to provide records or failure to cooperate in a Board investigation.

The recommended amendments would add minimum and maximum penalties for each of these new unprofessional conduct provisions. Staff used as a guide a selection of penalties pulled from violation categories of "General Unprofessional Conduct" and "Violations of the Chapter or Regulations by Licensees / Registrants".

3. Add to Penalty Guidelines (for various violations): Recovery Support Program

This recommended amendments add a new optional term of probation requiring, if the Board so chooses, the probationer to attend a recovery support program approved by the Board, such as Alcoholics Anonymous. The Board sometimes requires attendance as a term of probation, even though it is currently not included in the list of optional terms and conditions. The proposed language for the new term is discussed under section III of this memo, #3 under Model Disciplinary Orders.

4. Add to Penalty Guidelines (for various violations): Law and Ethics Course

This recommended amendments add a new optional term of probation to each violation requiring, if the Board so chooses, the probationer to attend a law and ethics course.

5. Penalty Guidelines (Page 28): Improper Supervision of Trainee / Intern / Associate / Supervisee

Suspension of license for improper supervision is currently a minimum penalty. The recommended amendments provide options for a lesser range of penalties, since a licensee may be a good clinician and therefore no risk to clients.

6. Penalty Guidelines (Page 29): Violations Involving Gaining or Supervision of Required Hours of Experience

This violation has been placed into its own section, including the proposed range of penalties. The recommended amendments would:

- Strike the penalty that requires a registration to be placed on probation until licensure. This is not necessary - probation automatically transfers to the license.
- Strike the penalty that requires the license to be issued on probation for one year. The remaining probation time may be more or less than one year.

III. MODEL DISCIPLINARY ORDERS

Optional Terms and Conditions of Probation

1. Psychological/Psychiatric Evaluation (Pages 36-37); Psychotherapy (Pages 37-39); Clinical Diagnostic Evaluation (Pages 39-40); Supervised Practice (Pages 40-42)

The recommended amendments do the following:

- Clarifies, updates and strengthens the requirements for evaluators, psychotherapists and supervisors of probationers.
- Clarifies the process for a probationer to submit a request for a specific evaluator, psychotherapist or supervisor, including evidence that the proposed professional meets the qualifications required for approval.

For Discussion:

Staff and Legal counsel recommend that an evaluator, psychotherapist or supervisor be required to not have ever been the subject of a disciplinary action against their license. The Committee expressed concern that this was too restrictive, and implies that a licensee is never considered to have been rehabilitated.

Staff consulted with our liaison to the Deputy Attorney General's office who stated that they are in support of this change because use of such an evaluator, psychotherapist or supervisor could provide a respondent with a reason to question their credibility if their evaluation or quarterly report is unfavorable to the respondent.

Legal counsel has advised that all DCA Boards and Bureaus currently follow this practice, and BBS staff has confirmed that this is current BBS practice as well.

2. Education Pertaining to the Violation (Pages 42-43) and Law and Ethics Course (Pages 46-47)

The recommended amendments clarify that a course must be taken from a Board-accepted continuation provider, and specifies the process for a probationer to request approval of their proposed course(s).

3. Attend Recovery Support Program (Page 43)

The addition of this term and condition would formalize current practice (as discussed under section II Penalty Guidelines, #3). The recommended language

III. MODEL DISCIPLINARY ORDERS (continued)

Optional Terms and Conditions of Probation (continued)

was developed by the Attorney General's office and DCA Legal, with the assistance of Board staff, and does the following:

- Requires the respondent to provide information about the proposed program including the location, as well as the program's elements and methods for providing recovery support services.
- Provides guidelines for determining the type and frequency of the meetings.
- Specifies the acceptable types of proof of attendance.

4. Abstain from Drugs and Alcohol / Submit to Drug and Alcohol Testing (Pages 44-45)

The recommended amendments combine the "Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing" with the "Abstain from Controlled Substances" term and condition. Currently, both must be included to cover abstention from both drugs and alcohol, and it is confusing when the terms are separate.

Please note that the language for this item has some differences from the language approved by the Policy and Advocacy Committee, as recommended by Regulations Counsel after a re-review of this section. The phrase "or other medical condition" was added to the first paragraph to broaden the language for clarity, and is consistent with current practice.

In addition, the proposal retains standards for abstention of "controlled or illegal substances" (and alcohol), and no longer replaces that text with "drugs" as previously proposed. The updated language is consistent with the Uniform Standards, which state that the testing vendor "shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances" (also, Uniform Standard No. 9 for a "banned substance" is not defined). As a result, the Board may only define abstention in a way that is consistent with its current testing protocols. Lastly, the "controlled or illegal substances" text helps to address stakeholder concerns regarding the previous language.

Standard Terms and Conditions of Probation

5. Obey all Laws (Page 48)

The recommended amendments provide a more accurate description of what it means for fingerprints to be "currently on file" with the Board.

Standard Terms and Conditions of Probation (continued)

6. File Quarterly Reports (Page 49)

The recommended amendments to the Quarterly Report Form (Attachment B) do the following:

- Provides thorough instructions that clarify requirements for completion and submission.
- Ensures the form matches the terms and conditions of probation that are proposed to be updated in the Disciplinary Guidelines.
- Better assists the Board in determining whether a respondent has complied with all terms and conditions of their probation.

7. Cost Recovery (Page 52)

The recommended amendments allow for a payment plan, and specify considerations for determining the payment plan.

IV. BOARD POLICIES AND GUIDELINES

1. Recommended Language for License Surrenders (Page 53)

The recommended amendments update and streamline the license surrender order language.

2. Recommended Language for Revocation of License (Page 56)

The recommended amendments add revocation of license order language.

3. Reinstatement / Reduction of Penalty Hearings (Page 56-57)

The recommended amendments to the factors that the Board considers when determining whether a reinstatement or penalty reduction is warranted to provide consistency with BPC section 4990.30(g), and rather than considering the petitioner's "attitude" toward commission of the violations, etc., and replaces it with a factor that is less subjective: "whether the petitioner has demonstrated a recognition of wrongdoing". The recommended language also provides additional wording for various order types.

Recommendation

Staff recommends that the Board review the proposed regulatory text and consider whether to approve it as written, or to suggest changes to the proposed text. After review and discussion, consider one of the following motions:

Motion Option A: (To be used if the Board has NO suggested changes for the proposed regulatory text)

Approve the proposed regulatory text as presented in the meeting materials attachments A, B and C, and submit the approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the text and the package, and set the matter for a hearing if requested. If after the 45-day public comment period, no adverse comments are received and no public hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking, and adopt the proposed regulations for Title 16, California Code of Regulations section 1888 and the documents incorporated by reference as noticed.

Motion Option B: (To be used if the Board DOES have suggested changes for the proposed regulatory text)

Approve the proposed regulatory text as presented in the meeting materials attachments A, B and C with the following changes: (*specify the proposed changes to the proposed text*). In addition, submit the approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the text and the package, and set the matter for a hearing if requested. If after the 45-day public comment period, no adverse comments are received and no public hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking, and adopt the proposed regulations for Title 16, California Code of Regulations section 1888 and the documents incorporated by reference as noticed.

Attachments

- A. Proposed Changes to Title 16, CCR section 1888
- B. Proposed Changes to Quarterly Report Form and Instructions
- C. Proposed Changes to Uniform Standards/Disciplinary Guidelines

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Attachment A
PROPOSED LANGUAGE
Title 16, Division 18, California Code of Regulations
Section 1888

Proposed amendments to the regulatory language are shown in single underline for text to be added and ~~single strikethrough~~ for text to be deleted.

Amend Section 1888. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES.

- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code ~~Section~~ Section 11400 et seq.), the Board of Behavioral Sciences shall consider the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” [Rev. ~~December 2020~~ OAL TO INSERT EFFECTIVE DATE] which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards Related to Substance Abuse apply to cases of substance abuse. Deviation from the Disciplinary Guidelines, including the standard terms 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 or aggravating factors; the age of the case; evidentiary problems.
- (b) Notwithstanding subsection (a), if the conduct found to be a violation involves drugs and/or alcohol, the violation is presumed to be a substance abuse violation for purposes of ~~Section~~ Section 315 of the Code. If the licensee or registrant does not successfully rebut the presumption that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation.
- (c) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.
- (d) All probationers shall submit quarterly reports to the Board. The report “Quarterly Report Form No. DCA BBS 37M-443 (OAL TO INSERT EFFECTIVE DATE)” shall be obtained from the Board and is hereby incorporated by reference.

Note: Authority cited: Sections 315, 315.2, 315.4, 495, 4980.60 and 4990.20, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, 495, 865.1, 865.2, 4982, 4989.54, 4992.3 and 4999.90, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

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Proposed amendments to the regulatory language are shown in single underline for text to be added and ~~single strikethrough~~ for text to be deleted.

QUARTERLY REPORT FORM

INFORMATION AND INSTRUCTIONS

GENERAL INFORMATION:

Pursuant to the Disciplinary Guidelines adopted pursuant to California Code of Regulations, Title 16, Division 18, Article 9, section 1888, you are required to submit quarterly reports to the Board of Behavioral Sciences (Board) regarding your compliance with the terms and conditions of your probation. Attached is the Board's Quarterly Report Form which you are to use in submitting these required reports. No other documentation or communication can be substituted for a completed Quarterly Report Form (e.g., other Board forms, letters, emails, telephone calls, etc.).

QUARTERLY REPORT SCHEDULE:

For the entire duration of your probation, all Quarterly Report Forms must be submitted by email, mail, or faxed to the Board as specified in the "INSTRUCTIONS FOR SUBMISSION" section on the next page and according to the following schedule:

| <u>REPORTING PERIOD</u> | <u>DATE DUE AT BOARD</u> |
|--------------------------------|--------------------------|
| <u>January 1 – March 31</u> | <u>April 10</u> |
| <u>April 1 – June 30</u> | <u>July 10</u> |
| <u>July 1 – September 30</u> | <u>October 10</u> |
| <u>October 1 – December 31</u> | <u>January 10</u> |

Completed Quarterly Report Forms and any required attachments must be emailed, postmarked (if mailed), or faxed to the Board no **earlier** than the end of the reporting periods and no **later** than the due dates listed above.

If others are required to submit quarterly reports to the Board pursuant to your probation terms and conditions (i.e., psychotherapy, supervised practice, rehabilitation program, billing monitor, etc.), their quarterly reports must also be submitted to the Board according to the schedule listed above via email, mail or fax to the email address, mailing address or fax number listed in #5 of the "Instructions for Submission" section.

The Board encourages you to develop your own reminder system to ensure that you submit your Quarterly Report Forms as required.

FIRST AND FINAL QUARTERLY REPORTS

Your first and final Quarterly Report Forms, including all required attachments, must be submitted by the due dates, even if the Quarterly Report Form only covers a portion of the time period of the total quarter (e.g., probation started in the middle of a quarter).

TOLLING OF PROBATION REQUIREMENTS

Pursuant to the Disciplinary Guidelines adopted pursuant to California Code of Regulations, Title 16, Division 18, Article 9, section 1888, under certain circumstances, if a licensee or associate who is on probation with the Board stops practicing or residing in California, their probation may be subject to tolling. If probation is tolled, Quarterly Report Forms and any required attachments must still be submitted to the Board according to the schedule listed in the "Quarterly Report Schedule" section.

INSTRUCTIONS FOR SUBMISSION:

Complete your Quarterly Report Form in the following manner:

1. Make a photocopy of the attached Quarterly Report Form
-OR-
Download the Quarterly Report Form from the Board's website (www.bbs.ca.gov)
2. Complete all sections that apply to your probation terms and conditions.
3. Attach additional sheets if more space is needed or if further explanation is required.
4. If a section or question on the form does not apply to your probation terms and conditions, indicate "Not Applicable."
5. If your probation has any term(s), condition(s), or deadline(s) that are not specified on the Quarterly Report Form, attach a separate sheet outlining them and describing what you have done during the quarter to maintain compliance.
6. Sign and date the form.
7. Attach all required documentation as specified on the Quarterly Report Form as described below:
 - A. PROOF OF PAYMENTS MADE
Proof of payments you made shall consist of BreEZe online system receipts, electronic fund transfer receipts (such as for credit card, debit card, and bank account payments), or payment records such as cancelled checks, bank

statements or credit card statements.

B. PROOF OF COURSE COMPLETION

Proof of course completion shall consist of a certificate of completion from the course provider, or an official transcript in an envelope sealed by the school. The certificate or transcript shall include your name, the title of the course, the number of hours earned, the date(s) of attendance and the name of the course provider.

C. PROOF OF ATTENDANCE – RECOVERY SUPPORT PROGRAM

Proof of attendance shall consist of attendance sheets from the recovery support program provider, or other document on which the recovery support group program representative verifies your attendance. Proof of attendance shall include all of the following for **each meeting** attended:

In-Person Meetings: Provide the meeting name, date, time, location and designated recovery support program representative signature.

Live Videoconferencing Meetings: Provide the meeting name, date, time and meeting/conference ID or number.

8. Send your Quarterly Report Form with attachments to the Board in **one** of the following ways:

- Email to your assigned Probation Analyst.
- Mail to the attention of your assigned Board Probation Analyst at:

Board of Behavioral Sciences
Attn: [INSERT NAME OF ASSIGNED PROBATION ANALYST]
1625 N. Market Blvd., Ste. S200
Sacramento, CA 95834

- Fax to the attention of your assigned Board Probation Analyst at (916) 574-8625.

Failure to submit your Quarterly Report Forms and attachments as required is considered non-compliance with the terms and conditions of your probation and may result in further disciplinary action.

QUESTIONS:

If you have any questions, contact your assigned Board Probation Analyst. If you have an URGENT matter and are unable to reach your assigned Board Probation Analyst, you may contact the Board's Probation Unit at BBS.Probation@dca.ca.gov.

Notice on Collection of Personal Information

The information requested on this form is mandatory and will be used to determine compliance with the requirements of your Board probation. The information may be provided to other governmental agencies, or in response to a court order, subpoena, or public records request. You have a right of access to records containing personal information unless the records are exempted from disclosure pursuant to Civil Code section 1798.40. Individuals may obtain information regarding the location of their records by contacting the Board's Executive Officer at 1625 North Market Blvd., Sacramento, CA 95834 or at (916) 574-7830.

Strike Department of Consumer Affairs Logo and ADD BBS logo:

Board of Behavioral Sciences

400 R Street, Suite 3150, Sacramento, CA 95814
Telephone: (916) 445-4933 TDD: (916) 322-1700
Website Address: <http://www.bbs.ca.gov>



Board of Behavioral Sciences

QUARTERLY WRITTEN REPORT FORM

Please complete this report and submit it to the Board quarterly (following the reporting schedule) during your probationary period. Any other type of form, correspondence, or telephone call will not be accepted.

- Reports are due postmarked seven (7) ~~ten (10)~~ days from the close of each quarter.
- Early submission of the report will be returned to you.

FAILURE TO SUBMIT A QUARTERLY REPORT SEVEN (7) ~~TEN (10)~~ DAYS FROM THE CLOSE OF EACH QUARTER MAY CONSTITUTE A VIOLATION OF PROBATION.

TYPE OR PRINT CLEARLY

Complete only those provisions below that are applicable to your probationary terms and conditions.

CASE# _____

QUARTERLY REPORTING PERIOD (Check appropriate box): From _____/_____/_____
Through _____/_____/_____

1. January 1 – March 31 (Due April 10)
2. April 1 – June 30 (Due July 10)
3. July 1 – September 30 (Due October 10)
4. October 1 – December 31 (Due January 10)
5. For the first and last Quarterly Report **only**, list the quarterly reporting period:
from _____ to _____

PERSONAL INFORMATION

Name: _____ License/Registration Number: _____

Address: _____ Telephone Number: (_____) _____

Address of Record: _____
(number and street, city, zip code)

Telephone Number: (_____) _____ Email Address: _____

Is this a change of your address of record? Yes No

Your residence address will only be used for purposes of probation monitoring if different from your address of record.

EMPLOYMENT

[NOTE: If self-employed, write "Self" next to "Employer," indicate the address where you see clients, and provide your business telephone number].

Employer (1): _____

Address: _____

Telephone Number: (_____) _____

Is this a change of your place of employment? Yes No

If Yes, specify the date of the change: _____

Employer (2): _____

Address: _____

Telephone Number: (_____) _____

Is this a change of your place of employment? Yes No

If Yes, specify the date of the change: _____

EMPLOYMENT STATUS

Have you practiced under your license/ or registration this quarter? Yes No

Have you ~~been~~ worked in private practice during this quarter? Yes No

If Yes, is it ~~s~~Solo practice? Yes No gGroup practice? Yes No

Average number of clients seen per week?: _____ Agency: _____ Private Practice: _____ Have you

supervised any unlicensed person(s) during this quarter? Yes No

If Yes, attach a separate sheet ~~and provide~~ providing an explanation.

QUARTERLY REPORT FORM

Name: _____

SUSPENSION

In this quarter, were you required pursuant to Board order to suspend your practice? Yes No

~~If Yes, did you cease any and all activities authorized by your license or registration? Yes No~~

~~If Yes, specify the dates that you suspended your practice: From: _____ to: _____~~

~~If No, attach a separate sheet providing an explanation.~~

~~If Yes, did you submit certification verifying suspension of practice? _____ Yes No~~

RESTRICTED PRACTICE

In this quarter, were there any special Board ordered restrictions on your practice? Yes No

~~If Yes, on a separate sheet, please explain in what way(s) your practice is restricted and steps you have taken during this quarter to comply. complete all of the following:~~

1. Is your supervisor or ~~some~~ an other individual required to be present at specific therapy sessions? Yes No

2. Supervisor's or Individual's Name: _____ License No.: _____

3. Dates of Service: _____

4. Attach a separate sheet, providing an explanation of the way(s) in which your practice is restricted and the steps that you have taken during this quarter to comply.

SUPERVISION SUPERVISED PRACTICE – LICENSEES ONLY

[Note: This section is only for Board licensees who are required to have supervised practice pursuant to the terms and conditions of their probation.]

In this quarter, were you required to have ~~supervision~~ a supervisor monitor your practice? Yes No

If Yes, complete all of the following:

Required Frequency: _____ times per week/month (circle one)

1. Supervisor’s Name: _____ License No.: _____

2. Dates of Supervision (held at supervisor’s office): _____

Dates of Supervision (held at your office): _____

3. Did you or your supervisor miss or cancel any required supervision appointment(s)?

If Yes, attach a separate sheet listing the date(s) and reasons(s) for each missed or cancelled supervision appointment(s).

4. This quarter Supervisor reviewed: Number of cases: _____ Number of billing logs: _____

5. Does your Supervisor have a signed release form for all of your clients? Yes No

If No, attach a separate sheet & provide providing an explanation.

6. Did you confirm that your Supervisor submitted their quarterly report to the Board as required? Yes No

If No, attach a separate sheet providing an explanation.

EXAMINATION

In this quarter, were you required to take and pass a licensing ~~or special~~ examination including any examination required for the renewal of your license or registration? Yes No

If Yes, have you taken the examination? Yes No

~~Type~~Exam: _____ Date of Exam: _____ Result: _____

LAW AND ETHICS COURSE

In this quarter, were you required to submit a plan for taking a Law and Ethics course to the Board for approval? Yes No

If Yes, did you submit the plan as required? Yes No

If No, attach a separate sheet providing an explanation.

If Yes, was your plan approved by the Board? Yes No

If the Board **approved your plan**, have you completed the course(s) in your plan? Yes No

If Yes, specify the course(s) below and attach proof of completion (See "INSTRUCTIONS FOR SUBMISSION #7.B").

If No, list the course(s) in your plan that you have not completed and the status of it/them:

REMEDIAL EDUCATION PERTAINING TO THE VIOLATION

In this quarter, were you required to submit an educational plan to the Board for approval? Yes No

If Yes, did you submit the educational plan for approval as required? Yes No

If No, attach a separate sheet providing an explanation.

If Yes, was your educational plan approved by the Board? Yes No

If the Board **approved your educational plan**, have you completed the course(s) in your educational plan? Yes No

If Yes, specify the course(s) below and attach proof of completion (See "INSTRUCTIONS FOR SUBMISSION" #7.B).

If No, list the course(s) in your educational plan that you have not completed and the status of it/them:

Are you attending or have you completed the assigned remedial coursework? Yes No

QUARTERLY REPORT FORM

Name: _____

In this quarter, did you enroll in any required courses? Yes No

~~If yes, please attach an attendance sheet signed by your instructor and include transcripts in a sealed envelope. If transcript is not available, please explain on a separate sheet.~~

~~If you are developing your education plan for Board approval or continuing with a class/course from a prior quarter, please submit a separate sheet detailing all actions you have taken to meet this requirement.~~

PSYCHOLOGICAL / PSYCHIATRIC EVALUATION

In this quarter, were you required to undergo a psychological or psychiatric evaluation? Yes No

If Yes, complete all of the following:

1. Name of Evaluator: _____

2. Date(s) of Evaluation-scheduled for and/or occurred: _____

3. If the evaluation has not been completed, list the date of the scheduled evaluation: _____

4. Attach Billing/Proof of Payment (See "INSTRUCTIONS FOR SUBMISSION" #7.A).

~~If you are awaiting Board notification of some aspect of this process, or if evaluation was required, but not begun, please attach a separate sheet explaining the status. If you are required to undergo a psychological or psychiatric evaluation during this quarter but have not done so, attach a separate sheet providing an explanation.~~

PSYCHOTHERAPY

In this quarter, were you required to undergo psychotherapy? Yes No

If Yes, complete all of the following:

1. Doctor/Therapist's Mental Health Professional's Name: _____

License Type: _____ License No.: _____

2. Location of Sessions: _____ Telephone No.: () _____

3. Required Frequency: _____ times per week/month (circle one)

4. List the dates of your scheduled appointments that you completed psychotherapy sessions with the above listed mental health professional during the quarter: _____

5. Did you or your therapist the above listed mental health professional miss or cancel any required therapy sessions? Yes No

If Yes, attach a separate sheet listing the date(s) and reason(s) for each missed or cancelled session.

QUARTERLY REPORT FORM

Name: _____

6. Did you confirm that ~~your therapist~~ the above listed mental health professional submitted their Quarterly Report to the Board as required? Yes No

If No, attach a separate sheet & ~~provide~~ providing an explanation.

7. In this quarter, were you required to submit to the Board for prior approval the name and qualifications of one or more mental health professionals? Yes No

If Yes, did you submit this information to the Board? Yes No

If you or your therapist missed/cancelled any appointments please explain on a separate sheet.

REHABILITATION PROGRAM/BIOLOGICAL FLUID TESTING ABSTAIN FROM DRUGS AND ALCOHOL / SUBMIT TO DRUG AND ALCOHOL TESTING

~~In this quarter, were you required to participate in a Board ordered and approved substance abuse treatment program?~~ Yes No

Name of Program: _____

~~If yes, have you complied with all program requirements?~~ Yes No

In this quarter, were you required to submit to ~~random biological fluid~~ drug and alcohol testing? Yes No

List the dates you were tested: _____

If Yes, complete questions 1 - 3 (if applicable):

1. ~~In this quarter, w~~Were you required to abstain from the use, possession, and consumption of drugs and alcohol and/or controlled substances and to submit to drug and alcohol testing? Yes No

If Yes, complete both of the following:

a. Did you abstain from the use, possession, and consumption of drugs and alcohol during this quarter? Yes No

b. Did you complete your testing as required? Yes No

~~If yes, and you did not, attach a separate sheet giving an explanation regarding the circumstances surrounding your use of controlled substances and/or alcohol.~~ **If you answered "No" to #1a. or #1b. above, attach a separate sheet providing a detailed explanation.**

2. Did the Board order you to cease practice as a licensee or associate due to a positive test result? Yes No

If Yes, did you cease practice as required? Yes No

If No, attach a separate sheet providing a detailed explanation.

QUARTERLY REPORT FORM

Name: _____

3. In this quarter, have there been any additions or changes to your prescription or over-the-counter medications? Yes No

If Yes, submit a letter from your prescribing physician listing all prescription medications and a list of your current over-the-counter medications to the Board.

Contact the Probation Monitor for guidance about documentation in your specific case.

RECOVERY SUPPORT PROGRAM

In this quarter, were you required to attend a recovery support program? Yes No

If Yes, complete all of the following:

1. Recovery Support Program Name: _____

2. Required Frequency: _____ times per week/month (circle one)

3. Did you miss any required recovery support program meetings? Yes No

If Yes, attach a separate sheet providing the date(s) and reason(s) for each missed meeting.

4. Attach proof of attendance **for each meeting** (See (INSTRUCTIONS FOR SUBMISSION" #7.C)).

REHABILITATION PROGRAM

In this quarter, were you required to participate in a Board ordered and approved rehabilitation program? Yes No

If Yes, complete all of the following:

Name of Program: _____

Have you complied with all program requirements? Yes No

Did you confirm that your program submitted their quarterly report to the Board as required? Yes No

If No to either of the above, attach a separate sheet providing an explanation.

QUARTERLY REPORT FORM

Name: _____

COMMUNITY SERVICE

In this quarter, were you required to perform hours of community service? _____ Yes No

If yes,

Number of hours required this quarter: _____ Number of hours completed this quarter: _____

Are you in the process of locating an agency or awaiting Board approval? _____ Yes No

If yes, attach a separate sheet detailing the steps you have taken this quarter to comply with this term.

Have you submitted the Agreement/Certification Form? _____ Yes No

Attach documentation from the agency reflecting number of hours completed this quarter.

OBEDIENT TO ALL LAWS

In this quarter, did you violate any federal, state or local law have you been cited for, arrested for, charged with, convicted of, or pled no contest to, a violation of any law of the United States, in any local, state, federal jurisdiction or territory of the United States, or in any foreign country, including criminal convictions, traffic or driving infractions, or convictions that were subsequently dismissed? Yes No

If ~~y~~Yes, attach a detailed explanation and **original certified copies** of police records and court documents (e.g., the court docket, including the complaint, information, or indictment, plea, minute order, summary of judgment, pre-sentencing probation report, and other documents which pertain to the conviction and/or sentencing).

In this quarter, were you on criminal probation? Yes No

If yes, complete the following:

Formal Probation (submit statement from probation officer)

Summary Probation (attach a statement indicating what actions you have taken to comply this quarter)

Discharged/Expunged this quarter (attach certified copy of court documents)

If Yes, and your case was discharged or expunged during this quarter, attach a certified copy of the court record(s).

In this quarter, do you have any other license or registration (in California, another state or territory of the United States, or a foreign country) that was cited, denied, suspended, disciplined or voluntarily surrendered? Yes No

If Yes, attach a separate sheet providing a detailed explanation.

COST RECOVERY-COSTS/RESTITUTION

In this quarter, were you required to pay cost recovery to the Board, as ordered by the terms and conditions of your probation? Yes No

If Yes, have you paid cost recovery in full or as directed in accordance with a payment plan? Yes No

~~Do you want to establish a payment plan? Yes No~~

In this quarter, were you required to make financial restitution to any individual/ or agency, as ordered by the terms of your Board probation ~~to this Board, or your criminal probation~~? Yes No

If Yes, have you paid the financial restitution in full or as directed in accordance with a payment plan? Yes No

If Yes, attach proof of compliance with your financial restitution requirements (See "INSTRUCTIONS FOR SUBMISSION" #7.A).

~~If yes, please you are required to pay cost recovery or financial restitution and have not paid as required, attach a separate sheet and provide providing a detailed explanation, status of the investigation, all documentation relating to the imposed discipline, and/or proof of payment.~~

TOLLING

In this quarter, did you leave California to reside or practice in another state? Yes No

If Yes, date(s) of departure: _____ date(s) of return: _____

In this quarter, did you take a leave of absence from practice in California for more than ~~twelve consecutive weeks~~ 30 days? Yes No

If Yes, beginning date: _____ ending date: _____

In this quarter, did you cease practice due to retirement, health, or other reasons? Yes No

If Yes, date ceased practice: _____

~~**IF YOUR PARTICULAR PROBATION HAS ANY TERMS AND CONDITIONS OR DEADLINES NOT SPECIFIED ON THIS FORM, PLEASE ATTACH A SEPARATE SHEET OUTLINING THE OTHER TERM(S) AND WHAT ACTIONS TOWARD COMPLIANCE YOU HAVE TAKEN DURING THIS QUARTER.**~~

ATTACH ADDITIONAL SHEETS IF MORE SPACE IS NEEDED OR IF FURTHER EXPLANATION IS REQUIRED.

DECLARATION

I declare under penalty of perjury under the laws of the State of California that ~~the foregoing, and the enclosed statements or documents are true and correct, and I further declare that I have obeyed all federal, state and local laws, including all statutes and regulations governing my license and that during this period of my probation~~ all statements within, and all documents attached in support of this Quarterly Report, contain true, correct, and complete information. I further declare that during this quarter, unless otherwise noted in this Quarterly Report or its attachments, I have fully complied with the terms and conditions of my probation program established by the Board.

Signature

Date

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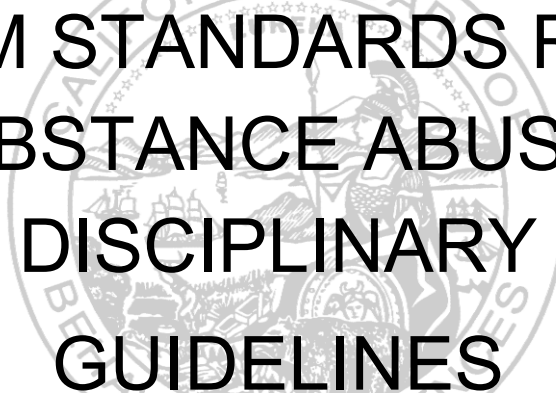
Attachment C

Proposed amendments to the regulatory language are shown in single underline for text to be added and ~~single strikethrough~~ for text to be deleted.

State of California

Department of Consumer Affairs

Board of Behavioral Sciences



UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

Revised: **December 2020** *(OAL to Insert Effective Date)*

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web-site at www.bbs.ca.gov.

INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following uniform standards related to substance abuse and recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of four parts:

I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or ~~a controlled substance~~ drugs, or whose license ~~or registration~~ is on probation due to a substance abuse violation;

II. Penalty Guidelines - ~~an identification of~~ identifies the types of violations and range of penalties for which discipline may be imposed;

III. Model Disciplinary Orders - language for proposed terms and conditions of probation divided into two categories, for purposes of this document:

- Optional Terms and Conditions: These terms and conditions of probation address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case; and
- Standard Terms and Conditions: These terms and conditions of probation generally appear in all cases involving probation.

IV. Board Policies and Guidelines – for various enforcement actions.

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code (B&P Code) §section 125.9 and Title 16 California Code of Regulations §section 1886.

All disciplinary actions will be published on the Internet in compliance with B&P Code section 27, and to facilitate access under the California Public Records Act.

NOTE: All references to the word “license” or “licensee” throughout this document shall also be interpreted as meaning “registration” or “registrant,” respectively, unless otherwise specified, consistent with B&P Code sections 23.7 and 23.8.

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I. Uniform Standards Related to Substance Abuse

Whether the Board's "Uniform Standards Related to Substance Abuse" ("Uniform Standards") terms and conditions of probation apply depends on whether the licensee is found to be a substance abusing licensee. If the conduct found to be a violation involves drugs or alcohol, the violation is presumed to be a substance abuse violation for the purposes of section 315 of the Business and Professions Code (Code). If the licensee does not rebut the presumption, then the Uniform Standards must be used, without deviation. Conversely, if the licensee successfully rebuts the presumptive finding that the violation is a substance abuse violation, then the "Uniform Standards" do not have to be used.

If applicable, these Uniform Standards shall be used in lieu of any similar standard or optional terms and conditions of probation proposed in the Guidelines, unless otherwise specified. However, the Board's standard and optional terms and conditions of probation should still be used in formulating the penalty or probationary order and in considering additional terms and conditions of probation appropriate for greater public protection.

Uniform Standards ~~For for~~ Licensees ~~Or Registrants~~ Whose License ~~Or Registration Is On~~ is on Probation ~~Due To A~~ due to a Substance Abuse Violation

The following standards shall apply in all cases in which a license ~~or registration~~ is placed on probation due, in whole or in part, to a substance abuse violation, unless the licensee ~~or registrant~~ successfully rebuts the presumption that that the violation is a substance abuse violation.

Clinical Diagnostic Evaluations

Whenever a licensee ~~or registrant~~ is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance ~~abuse-use~~ disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance ~~abuse-use disorder~~ clinical diagnostic evaluations.

The following practice restrictions apply to each licensee ~~or registrant~~ who is ordered to undergo ~~es~~ a clinical diagnostic evaluation:

1. The Board shall suspend the license ~~or registration~~ during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
2. While awaiting the results of a clinical diagnostic evaluation, the licensee ~~or registrant~~ shall be randomly drug tested at least two (2) times per week.

Clinical Diagnostic Evaluation Report

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee ~~or registrant~~ has a substance ~~abuse problem~~ use disorder, whether the licensee ~~or registrant~~ is a threat to ~~himself or herself~~ or others, and recommendations for substance ~~abuse~~ use disorder treatment, practice, restrictions, or other recommendations related to the licensee's ~~or registrant's~~ rehabilitation and safe practice.

The evaluator shall not have a current or prior financial, personal, business, ~~or~~ professional, or therapeutic relationship with the licensee ~~or registrant~~. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee ~~or registrant~~ is a threat to ~~himself or herself~~ or others, the evaluator shall notify the ~~b~~Board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) calendar days from the date the evaluator is assigned the matter evaluation unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee ~~or registrant~~ is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee ~~or registrant~~ based on the application of the following criteria:

1. License ~~or registration~~ type;
2. Licensee's ~~or registrant's~~ history;
3. Documented length of sobriety;
4. Scope and pattern of substance abuse;
5. Treatment history;
6. Medical history;

7. Current medical condition;
8. Nature, duration and severity of substance ~~abuse problem~~ use disorder; and
9. Whether the licensee ~~or registrant~~ is a threat to ~~himself or herself~~ or others.

No licensee ~~or registrant~~ shall be returned to practice until ~~he or she~~ the licensee has at least 30 calendar days of negative drug tests.

When determining if the licensee ~~or registrant~~ should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license ~~or registration~~ type, licensee ~~or registrant's~~ history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee ~~or registrant~~ is a threat to ~~himself or herself~~ or others.

Supervisor Requirements

If the Board determines that a supervisor is necessary for a particular licensee ~~or registrant~~, the supervisor must meet the following requirements to be considered for approval by the Board:

1. The supervisor shall not have a current or former financial, personal, business, ~~or professional, or therapeutic~~ relationship with the licensee ~~or registrant~~, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's ~~or registrant's~~ employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's ~~or registrant's~~ supervisor be an employee or supervisee of the licensee ~~or registrant~~.
2. The supervisor's license scope of practice shall include the scope of practice of the licensee ~~or registrant~~ who is being monitored or be another health care professional if no supervisor with a like scope of practice is available.
3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The supervisor shall sign an affirmation that ~~he or she has~~ they have reviewed the terms and conditions of the licensee's ~~or registrant's~~ disciplinary order and agrees to monitor the licensee ~~or registrant~~ as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee ~~or registrant~~:

1. Have a face-to-face contact with the licensee ~~or registrant~~ in the work environment on as frequent a basis as determined by the Board, but at least once per week.
2. Interview other staff in the office regarding the licensee's ~~or registrant's~~ behavior, if applicable.
3. Review the licensee's ~~or registrant's~~ work attendance.

Reporting by the supervisor to the Board shall be as follows:

1. Any suspected substance abuse must be orally reported to the Board and the licensee's ~~or registrant's~~ employer within one (1) business day of occurrence. If the occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
 - a. the licensee's ~~or registrant's~~ name;
 - b. license ~~or registration~~ number;
 - c. supervisor's name and signature;
 - d. supervisor's license number;
 - e. worksite location(s);
 - f. dates licensee ~~or registrant~~ had face-to-face contact with supervisor;
 - g. worksite staff interviewed, if applicable;
 - h. attendance report;
 - i. any change in behavior and/or personal habits; and
 - j. any indicators that can lead to suspected substance abuse.

The licensee ~~or registrant~~ shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

Chemical Dependency Support or Recovery Group Meetings

If the Board requires a licensee ~~or registrant~~ to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

1. the licensee's ~~or registrant's~~ history;
2. the documented length of sobriety;
3. the recommendation of the clinical diagnostic evaluator;
4. the scope and pattern of substance abuse;
5. the licensee's ~~or registrant's~~ treatment history; and
6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee ~~or registrant~~ is required to participate in must meet the following requirements:

1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance ~~abuse~~ use disorders;
2. Be licensed or certified by the state or ~~other a~~ nationally certified organizations to provide substance ~~abuse~~ use disorder recovery services;
3. Does not have a financial, personal, business, ~~or~~ professional, or therapeutic relationship with the licensee ~~or registrant~~ within the last year;
4. Must provide the Board a signed document showing the licensee's ~~or registrant's~~ name, the group name, the date and location of the meetings, the licensee's ~~or registrant's~~ attendance, and the licensee's ~~or registrant's~~ level of participation and progress.
5. Must report to the Board any unexcused absence of a Board licensee ~~or registrant~~ being required to participate within 24 hours.

Major and Minor Violations

Major violations include, but are not limited to, the following:

1. Failure to complete any Board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;

3. Committing more than one minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to report for drug and alcohol testing when ordered;
7. Testing positive for alcohol and/or a controlled substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee **or registrant** commits a major violation, the Board shall automatically suspend the license **or registration** and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License **or registration** shall be suspended;
2. Licensee **or registrant** must undergo a new clinical diagnostic evaluation;
3. Licensee **or registrant** must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee **or registrant** shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused **attendance absence** at required meetings;
3. Failure to contact a supervisor and/or monitor as required;
4. Any other violations that do not present an immediate threat to the licensee **or registrant** or to the public.

If a licensee **or registrant** commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

Positive Test for Alcohol and/or a Controlled Substance

If a licensee ~~or registrant~~ tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license ~~or registration~~;
- Immediately contact the licensee ~~or registrant~~ and inform ~~him or her~~ them that ~~his or her~~ their license ~~or registration~~ has been suspended and ~~he or she may not~~ practice is prohibited until the suspension is lifted; and
- Immediately notify the licensee's ~~or registrant's~~ employer that the license ~~or registration~~ has been automatically suspended, and that ~~he or she~~ the licensee may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee ~~or registrant~~ and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

Drug Testing Standards

The drug testing standards below shall apply to each licensee ~~or registrant~~ subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

1. Drug testing may be required on any day, including weekends and holidays.
2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
3. Licensees ~~or registrants~~ shall be required to make daily contact as directed to determine if drug testing is required.
4. Licensees ~~or registrants~~ shall be drug tested on the date of notification as directed by the Board.

5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
8. Collection of specimens shall be observed.
9. Prior to vacation or absence, any alternative to the licensee's drug testing location(s)-requirements (including frequency) must be approved by the Board.
10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven calendar (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

Drug Testing Frequency Schedule

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

| Level | Year of Probation | Minimum Range Number of Random Tests |
|-------|-------------------|--------------------------------------|
| I | Year 1 | 52-104 per year |
| II | Years 2 through 5 | 36-104 per year |
| III | After Year 5 | Once per month* |

*If no positive drug tests in the previous 5 consecutive years

The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee ~~or registrant~~ has violated the prescribed testing program, or finds that a licensee ~~or registrant~~ has committed a major violation, it may re-establish the testing cycle by placing that licensee ~~or registrant~~ at the beginning of Level I. This is in addition to any other disciplinary action.

Drug Testing Frequency Schedule Exceptions

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

1. Licensee ~~or registrant~~ Demonstrates Previous Testing and Sobriety

The licensee ~~or registrant~~ can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent ~~to the standard~~ to the schedule prescribed above.

2. Violations Outside of Employment

A licensee ~~or registrant~~ whose license ~~or registration~~ is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven (7) years from each other, where alcohol or drug were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee ~~or registrant~~ is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee ~~or registrant~~ returns to practice, the licensee ~~or registrant~~ shall notify and obtain approval from the Board. The licensee ~~or registrant~~ shall then be subject to Level I testing frequency for at least 60 calendar days. If the licensee ~~or registrant~~ had not previously met the Level I frequency standard, the licensee ~~or registrant~~ shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee ~~or registrant~~ had previously met the Level I frequency standard, the licensee ~~or registrant~~ shall be subject to Level II testing after completing Level I testing for at least 60 calendar days.

4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee ~~or registrant~~ shall notify the Board upon ~~his or her~~ their return to practice in California and shall be subject to testing as provided in the testing frequency standard. If the licensee ~~or registrant~~ returns to practice and has not previously met the Level I testing frequency standard, the licensee ~~or registrant~~ shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee ~~or registrant~~ has previously met the Level I testing frequency standard, then Level II shall be in effect.

Tolling will not be postponed under either of the following circumstances: a positive test result is received, or the person's license has been suspended.

5. Substance Use Disorder Not Diagnosed

If a licensee ~~or registrant~~ is not diagnosed with a current substance use disorder, a lesser period of monitoring and ~~toxicology screening~~ testing may be adopted by the Board. This ~~period~~ frequency may not be less than 24 times per year.

6. Licensed Supervision During Practice

The Board may reduce testing frequency to a minimum of 24 times per year for any licensee who is a practicing licensee if the licensee receives a minimum of 50% supervision per day by a supervisor licensed by the Board.

Criteria to Petition to Return to Practice

In order to petition to return to full time practice, a licensee ~~or registrant~~ shall have demonstrated all of the following:

1. Sustained compliance with ~~his or her~~ the licensee's current recovery program;
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to ~~his or her~~ the licensee's substance abuse;
3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
4. Complete compliance with the other terms and conditions of ~~his or her~~ the licensee's program.

Criteria to Petition for Reinstatement to Unrestricted License ~~or Registration~~

In order to petition for reinstatement to a full and unrestricted license ~~or registration~~, a licensee ~~or registrant~~ shall meet all of the following criteria:

1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
2. Demonstrated successful completion of a rehabilitation program (if required);
3. Demonstration of a consistent and sustained participation in activities that promote and support ~~his or her~~ recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated ability to practice safely; and
5. Continuous sobriety for at least three (3) to five (5) years.

II. Introduction to Penalty Guidelines

~~The following is an attempt to provide~~ This section provides information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the ~~appropriate~~ range of penalties for each violation.

Minimum and maximum penalty considerations are listed for each violation category. Each penalty listed ~~is followed in parenthesis by a number, which~~ corresponds with a ~~number~~ description of that penalty under ~~the~~ Chapter III “Model Disciplinary Orders.” (with the exception of revocation).

The recommended terms and conditions of probation, for the purposes of this document, are divided into two general categories:

- Standard Terms and Conditions: These terms and conditions of probation generally appear in all cases involving probation.
- Optional Terms and Conditions: These terms and conditions of probation address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

~~Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations.~~

Optional conditions listed under a violation category are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be considered and imposed where appropriate depending on the nature and circumstances of a particular case.

Except as provided in the Uniform Standards Related to Substance ~~a~~Abuse, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> | <p align="center">Maximum Penalty</p> |
|---|--|--|---|
| <p>LMFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729</p> | <p>Engaging in Sexual Contact with Client / Former Client</p> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. <p><u>The law requires revocation/denial of license.</u></p> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. <p>The law requires revocation/denial of license or registration.</p> |
| <p>LMFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)</p> | <p>Engaging in in Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act eOccurred pPrior to or aAfter rRegistration or lLicensure. Or</p> <p>Engaging in an aAct dDescribed in Section 261, 286, 287 288a, or 289 of the Penal code with a mMinor or an aAct dDescribed in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.</p> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. <p>The Board considers this reprehensible offense to warrant revocation/denial.</p> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. <p>The Board considers this reprehensible offense to warrant revocation/denial.</p> |
| <p>GP: <u>B&P §§ 865, 865.1, 865.2</u></p> | <p><u>Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18</u></p> | <ul style="list-style-type: none"> • <u>Revocation / Denial of license</u> • <u>Cost recovery</u> | <hr/> |

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> <p align="center"><u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p align="center">Maximum Penalty</p> |
|---|--|--|--|
| <p>LMFT: B&P § 4982(k), 4982.26 LCSW: B&P §§ 4992.3(l), 4992.33 CCR § 1881(f) LEP: B&P §§ <u>4989.54(n)</u>, 4989.58, 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P §§ 480, 726</p> | <p>Sexual Misconduct (Anything other than as defined in B&P Section 729)</p> | <ul style="list-style-type: none"> • Revocation stayed • 60 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation • Take and pass licensure examinations as a condition precedent to resumption of practice • 7 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Psychological/psychiatric evaluation as a condition precedent to resumption of practice • Supervised practice • Psychotherapy • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Take and pass licensure examination(s) • Reimbursement of probation program <u>costs</u> <p>And if warranted,</p> <ul style="list-style-type: none"> • enter and complete a <u>R</u>ehabilitation program <u>approved by the Board</u>; abstain from <u>controlled substances/use of drugs and alcohol</u>; submit to drug and alcohol testing; • <u>R</u>estricted practice, reimbursement of probation program costs. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery; <p>(See B&P §§ 4982.26, 4989.58, <u>4990.40</u>, 4992.33)</p> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p> |

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> <p align="center"><u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p align="center">Maximum Penalty</p> |
|---|--|---|---|
| <p>LMFT: B&P § 4982(k) LCSW: B&P § 4992.3(l) CCR § 1881(f) LEP: B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480</p> | <p>Commission of an Act Punishable as a Sexually Related Crime</p> | <ul style="list-style-type: none"> • Revocation stayed • 60-120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation • Psychotherapy • 5 years probation; standard terms and conditions • Psychological/psychiatric evaluation as a condition precedent to the resumption of practice • Supervised practice • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs <p>And if warranted,</p> <ul style="list-style-type: none"> • Restricted practice. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. |

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> <p align="center"><u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15</u> <u>before selecting penalties</u></p> | <p align="center">Maximum Penalty</p> |
|---|---|---|---|
| <p>LMFT: B&P §§ 4982(c), 4982.1 LCSW: B&P §§ 4992.3(c), 4992.35 LEP: B&P §; 4989.54(c) LPCC: B&P § 4999.90(c) GP: B&P § 480, 820</p> | <p>Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency</p> | <ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation • 5 years probation; standard terms and conditions • Supervised practice • Cost recovery • Reimbursement of probation program costs. <p><u>In addition:</u></p> <ul style="list-style-type: none"> • MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy. • PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice • CHEMICAL DEPENDENCY: <u>Abstain from drugs and alcohol;</u> <u>Random submit to</u> drug and alcohol testing; psychological/psychiatric /clinical diagnostic evaluation; supervised practice; <u>psycho</u>therapy; rehabilitation program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. |

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> <p align="center"><u>Note:</u></p> <p align="center"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p align="center">Maximum Penalty</p> |
|---|--|---|--|
| <p>LMFT: B&P §§ 4982(c), 4982.1 LCSW: B&P §§ 4992.3(c), 4992.35 LEP: B&P §§ 4989.54(c), 4989.56 LPCC: B&P § 4999.90(c) GP: B&P § 480</p> | <p>Chemical Dependency for Use of Drugs <u>or Alcohol</u> With Client While Performing Services</p> | <ul style="list-style-type: none"> • Revocation stayed • 60 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation • Random <u>Submit to</u> drug and alcohol testing • 5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Psychological/psychiatric/clinical diagnostic evaluation • Supervised practice • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Supervised practice • Education • Rehabilitation program • Abstain from controlled substances/use of <u>drugs and</u> alcohol • Cost recovery • Reimbursement of probation program costs • <u>And if warranted,</u> • pPsychotherapy; • rRestricted practice • <u>Attend recovery support program</u> | <ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery- |

| <p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p>Violation Category</p> | <p>Minimum Penalty</p> <p>Note:</p> <p><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p>Maximum Penalty</p> |
|--|--|---|---|
| <p>LMFT: B&P § 4982(i) LCSW: B&P § 4992.3(j) CCR § 1881(d) LEP: B&P § 4989.54(m) LPCC: B&P § 4999.90(i) GP: B&P § 480</p> | <p>Intentionally / Recklessly Causing Physical or Emotional Harm to Client</p> | <ul style="list-style-type: none"> • Revocation stayed • 60 90-120 days actual suspension • 5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Supervised practice • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Take and pass licensure examinations(s) • Cost recovery • Reimbursement of probation program costs <p>And if warranted,</p> <ul style="list-style-type: none"> • pPsychological/psychiatric evaluation; • pPsychotherapy; • rRestricted practice; | <ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> application • Cost recovery |

| <p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p>Violation Category</p> | <p>Minimum Penalty</p> <p><u>Note:</u></p> <p><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p>Maximum Penalty</p> |
|--|--|---|--|
| <p><u>LMFT</u>: B&P § 4982(d) <u>LCSW</u>: B&P § 4992.3(d) <u>and (e)</u> CCR § 1881(m) <u>LEP</u>: B&P § 4989.54(k) <u>LPCC</u>: B&P § 4999.90(d) <u>GP</u>: B&P § 480</p> | <p>Gross Negligence / Incompetence</p> | <ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension; 5 years <u>probation</u> • Standard terms and conditions; supervised practice • <u>5 years probation; standard terms and conditions</u> • <u>Supervised practice</u> • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Take and pass licensure examinations<u>(s)</u> • Cost recovery • Reimbursement of probation program costs; <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • p<u>p</u>Psychological/psychiatric evaluation; • p<u>p</u>Psychotherapy; • r<u>r</u>Rehabilitation program; • <u>Attend recovery support program</u> • a<u>a</u>Abstain from controlled substances/use of <u>drugs and</u> alcohol; • s<u>s</u>Submit to drug and alcohol testing; • r<u>r</u>Restricted practice- | <ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery- |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;"><u>Note:</u></p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
|---|--------------------------------|---|---|
| LMFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 <u>CCR § 1823</u> GP: B&P §§ 125.6, 480, 821 | General Unprofessional Conduct | <ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Supervised practice • Education <u>pertaining to the violation</u> • Cost recovery; • RReimbursement of probation program <u>costs</u> • <u>Law and ethics course</u> <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • pPsychological/psychiatric evaluation; • pPsychotherapy; • rRehabilitation program; • aAbstain from controlled substances/use of drugs and alcohol; • sSubmit to drug and alcohol testing; • <u>Attend recovery support program</u> • rRestricted practice; law and ethics course. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery- |

| <p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p>Violation Category</p> | <p>Minimum Penalty</p> <p>Note:</p> <p><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p>Maximum Penalty</p> |
|--|---|---|---|
| <p>LMFT: B&P §§ 4980.40(e), 4982(a) LCSW: B&P §§ 4992.3(a), 4996.2(d), 4996.18(b) LEP: B&P §§ 4989.20(a)(3), 4989.54(a) LPCC: B&P § 4999.90(a) GP: B&P §§ 480, 490, 493</p> | <p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee-Registrant</p> | <ul style="list-style-type: none"> • Revocation stayed • 60 days actual suspension • 5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Supervised practice • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs <p>(Costs and conditions of probation depend on the nature of the criminal offense).</p> <p><u>In addition:</u> CRIMES AGAINST PEOPLE: <u>Add:</u> Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: <u>Add:</u> Random <u>Submit to</u> drug and alcohol testing; psychological, psychiatric, <u>or</u> clinical diagnostic evaluation; psychotherapy; supervised practice; rehabilitation program; abstain from controlled substances/use of drugs and alcohol; and if warranted: <u>attend recovery support program;</u> restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: <u>Add:</u> Restitution; and if warranted: psychotherapy; take and pass licensure exams <u>examination(s)</u>; rehabilitation program; restricted practice.</p> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. |

| <p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p align="center">Violation Category</p> | <p align="center">Minimum Penalty</p> <p align="center"><u>Note:</u></p> <p align="center"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p align="center">Maximum Penalty</p> |
|--|--|---|---|
| <p>LMFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P §§ 480, 650, 810</p> | <p>Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License</p> | <ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • Cost recovery • Law and ethics course • Reimbursement of probation program costs <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • p<u>P</u>Psychological/psychiatric evaluation; • s<u>S</u>Supervised practice; • p<u>P</u>Psychotherapy; • t<u>T</u>Take and pass licensure exams <u>examination(s)</u>; • r<u>R</u>Restricted practice. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. |
| <p>LMFT: B&P § 4980.02, 4982(l), 4982(s), 4982 and (t) CCR § 1845(a), 1845(b) LCSW: B&P §§ 4992.3(m), 4996.9 CCR § 1881(g), 1881(h)(b) LEP: B&P §§ 4989.14, 4989.54(r) CCR § 1858(b) LPCC: B&P § 4999.90(l), 4999.90(s), 4999.90 and (t) GP: B&P § 480</p> | <p>Performing, Representing Able Ability to Perform, Offering to Perform, Permitting Trainee or Intern Associate to Perform Beyond Scope of License / Competence</p> | <ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • p<u>P</u>Psychological/psychiatric evaluation; • s<u>S</u>Supervised practice; • p<u>P</u>Psychotherapy; • t<u>T</u>Take and pass licensure exams <u>examination(s)</u>; • r<u>R</u>Restricted practice. | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery. |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;">Note:</p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
|---|---|--|---|
| LMFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54 and (i) LPCC: B&P § 4990.38 GP: B&P §§ 141, 480 | Discipline by Another State or Governmental Agency | <ul style="list-style-type: none"> Determine the appropriate penalty by comparing the violation under the other state with California law. And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs. | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery- |
| LMFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P § 4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P §§ 480, 498, 499 | Securing or Attempting to Secure a License by Fraud | <ul style="list-style-type: none"> Revocation / Denial of license or registration application; Cost recovery- | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery- |
| LMFT: B&P §§ 4980, 4982(f) CCR § 1845(a), 1845(b) LCSW: B&P §§ 4992.3(f)(g), 4996 CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480 | Misrepresentation of License / Qualifications | <ul style="list-style-type: none"> Revocation stayed 60 days actual suspension 3-5 years probation; <u>standard terms and conditions</u> Standard terms and conditions Education <u>pertaining to the violation</u> <u>Law and ethics course</u> Cost recovery Reimbursement of probation program costs And if warranted: Take and pass licensure examinations-(s) | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery- |
| LMFT: B&P § 4982(q) <u>and (ab)</u> LCSW: B&P § 4992.3(r) <u>and (z)</u> CCR § 1881(t) LEP: B&P § 4989.54(s) <u>and (z)</u> LPCC: B&P § 4999.90(q) <u>and (aa)</u> GP: B&P §§ 123, 480, 496 | Violates Exam Security / Subversion of Licensing Exam | <ul style="list-style-type: none"> Revocation stayed 5 years probation; <u>standard terms and conditions</u> Standard terms and conditions Education <u>pertaining to the violation</u> <u>Law and ethics course</u> Cost recovery Reimbursement of probation program costs | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;"><u>Note:</u></p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
|---|---|--|--|
| LMFT: B&P § 4982(g) LCSW: B&P §§ 4992.3(h), 4992.7 CCR § 1881(b)(a) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480 | Impersonating Licensee / Allowing Impersonation | <ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • <u>Supervised practice</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • Psychological/psychiatric evaluation • Psychotherapy • Cost recovery • Reimbursement of probation costs | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery |
| LMFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(e) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P §§ 125, 480 | Aiding and Abetting Unlicensed / Unregistered Activity | <ul style="list-style-type: none"> • Revocation stayed • 30-90 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • sSupervised practice | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u> | Maximum Penalty |
|--|---|--|---|
| LMFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54-(q) LPCC: B&P § 4999.90(m) GP: B&P § 480 | Failure to Maintain Confidentiality | <ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Take and pass licensure exams <u>examination(s)</u> • Cost recovery • Reimbursement of probation program costs | <ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery |
| MFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P §§ 480, <u>728</u> | Failure to Provide Sexual Misconduct Brochure | <ul style="list-style-type: none"> • Revocation stayed • 1-3 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs. | <ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery |
| LMFT: B&P § 4982(r), 4982(t), 4982 and (u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab), CCR § 1858(b) LPCC: B&P § 4999.90(r), 4999.90(t), 4999.90 and (u) | Improper Supervision of Trainee / Intern / Associate / Supervisee | <ul style="list-style-type: none"> • Revocation stayed • 30-90 days actual suspension • 2 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs • <u>And if warranted: supervised practice.</u> | <ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery • <u>Revocation stayed</u> • <u>30-90 days suspension</u> • <u>2 years probation; standard terms and conditions</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • <u>Cost recovery</u> • <u>Reimbursement of probation</u> |

| | | | <ul style="list-style-type: none"> <u>program costs</u> <u>Supervised practice</u> |
|---|---|---|--|
| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;"><u>Note:</u></p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
| LMFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e) 4999.90(u) GP: B&P § 480 | Violations of the Chapter or Regulations by licensees or registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience Violating, Attempting to Violate, or Conspiring to Violate any Provision of the Chapter or any Regulation Adopted by the Board | <ul style="list-style-type: none"> Revocation stayed Registration on probation until exams are passed and license issued License issued on probation for one year Rejection of all illegally acquired hours 3-5 years probation; <u>standard terms and conditions</u> Education <u>pertaining to the violation</u> <u>Law and ethics course</u> Cost recovery Reimbursement of probation program costs. | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery |
| LMFT: B&P § 4982(u) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ac) LPCC: B&P § 4999.90(u) GP: B&P § 480 | Violations Involving Gaining or Supervision of Required Hours of Experience | <ul style="list-style-type: none"> Revocation stayed 3-5 years probation; standard terms and conditions Rejection of all illegally acquired hours Education pertaining to the violation Law and ethics course Cost recovery Reimbursement of probation program costs | <ul style="list-style-type: none"> Revocation / Denial of license Cost recovery |
| LMFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650 | Pay, Accept, Solicit Fee for Referrals | <ul style="list-style-type: none"> Revocation stayed 3-5 years probation; <u>standard terms and conditions</u> Standard terms and conditions Education <u>pertaining to the violation</u> Cost recovery Reimbursement of probation program costs Law and Ethics course | <ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;"><u>Note:</u></p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
|---|---|---|--|
| LMFT: B&P § 4982(n) LCSW: B&P § 4992.3(o) CCR § 4881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90(n) | Failure to Disclose Fees in Advance | <ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u> | <ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 2 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u> |
| LMFT: B&P §§ 4980.46, 4982(p) LCSW: B&P § 4992.3(q) CCR § 4881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P §§ 480, 651, 17500 | False / Misleading / Deceptive / Improper Advertising | <ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u> | <ul style="list-style-type: none"> • Revocation stayed • 30-60 days actual suspension • 5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs |
| LMFT: B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: B&P § 4999.90(v) | Failure to Keep Records Consistent with Sound Clinical Judgment | <ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u> | <ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs |

| <p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p> | <p>Violation Category</p> | <p>Minimum Penalty</p> <p><u>Note:</u></p> <p><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | <p>Maximum Penalty</p> |
|--|--|--|---|
| <p><u>LMFT: B&P § 4982(y)</u> <u>LCSW: B&P § 4992.3(w)</u> <u>LEP: B&P § 4989.54(x)</u> <u>LPCC: B&P § 4999.90(ad)</u></p> | <p>Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code (<u>Client Access to Records</u>)</p> | <ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs | <ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs |
| <p><u>LMFT: B&P § 4982(z)</u> <u>LCSW: B&P § 4992.3(x)</u> <u>LEP: B&P § 4989.54(d)</u> <u>LPCC: B&P § 4999.90(ac)</u></p> | <p>Failure To Comply With Section 2290.5 (Telehealth)</p> | <ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery; • Reimbursement of probation program costs- | <ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 1-3 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u> | Maximum Penalty |
|---|---|--|---|
| <u>LMFT: CCR § 1845(e)</u> <u>LCSW: CCR § 1881(g)</u> <u>LEP: CCR § 1858(c)</u> <u>LPCC: CCR § 1823(a)</u> | <u>Failure to Provide Records to the Board Within 15 Days of Receipt of Request</u> | <ul style="list-style-type: none"> • <u>Revocation stayed</u> • <u>60-90 days suspension</u> • <u>3-5 years probation; standard terms and conditions</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • <u>Cost recovery</u> • <u>Reimbursement of probation program costs</u> | <ul style="list-style-type: none"> • <u>Revocation / Denial of license</u> • <u>Cost recovery</u> |
| <u>LMFT: CCR § 1845(f)</u> <u>LCSW: CCR § 1881(r)</u> <u>LEP: CCR § 1858(d)</u> <u>LPCC: CCR § 1823(b)</u> | <u>Failure to Cooperate and Participate in a Pending Board Investigation</u> | <ul style="list-style-type: none"> • <u>Revocation stayed</u> • <u>60-90 days suspension</u> • <u>3-5 years probation; standard terms and conditions</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • <u>Cost recovery</u> • <u>Reimbursement of probation program costs</u> | <ul style="list-style-type: none"> • <u>Revocation / Denial of license</u> • <u>Cost recovery</u> |

| Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) | Violation Category | Minimum Penalty <p style="text-align: center;">Note:</p> <p style="text-align: center;"><u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u></p> | Maximum Penalty |
|--|---|--|---|
| <u>LMFT: CCR § 1845(g)</u> <u>LCSW: CCR § 1881(s)</u> <u>LEP: CCR § 1858(e)</u> <u>LPCC: CCR § 1823(c)</u> | <u>Failure to Report to the Board within 30 Days:</u> <ul style="list-style-type: none"> • <u>A Felony or Misdemeanor Conviction, or</u> • <u>Any Disciplinary Action Taken by Another Licensing Entity or Governmental Authority</u> | <ul style="list-style-type: none"> • <u>Revocation stayed</u> • <u>60-90 days suspension</u> • <u>3-5 years probation; standard terms and conditions</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • <u>Cost recovery</u> • <u>Reimbursement of probation program costs</u> | <ul style="list-style-type: none"> • <u>Revocation / Denial of license</u> • <u>Cost recovery</u> |
| <u>LMFT: CCR § 1845(i)</u> <u>LCSW: CCR § 1881(u)</u> <u>LEP: CCR § 1858(g)</u> <u>LPCC: CCR § 1823(e)</u> | <u>Failure to Comply with a Court Order Mandating Release of Records to the Board</u> | <ul style="list-style-type: none"> • <u>Revocation stayed</u> • <u>60-90 days suspension</u> • <u>3-5 years probation; standard terms and conditions</u> • <u>Education pertaining to the violation</u> • <u>Law and ethics course</u> • <u>Cost recovery</u> • <u>Reimbursement of probation program costs</u> | <ul style="list-style-type: none"> • <u>Revocation / Denial of license</u> • <u>Cost recovery</u> |

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III. Model Disciplinary Orders

This section contains the following:

~~The first category consists of~~ **Optional Terms and Conditions of Probation:** ~~that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case~~ These terms and conditions of probation address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of the case.

~~The second category consists of the~~ **Standard Terms and Conditions of Probation:** These terms and conditions of probation ~~which must generally~~ appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (items 1 - 16) that are being imposed be listed ~~first~~ FIRST in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (as specified under Standard Terms and Conditions of Probation items 17- 32).

Note: The term “designee” refers to the Executive Officer, Assistant Executive Officer, Enforcement Program Manager, and Probation Monitor(s), of the Board of Behavioral Sciences.

Optional Terms and Conditions of Probation

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. ~~Actual s~~Suspension
2. Psychological / Psychiatric ~~e~~Evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice
6. Education Pertaining to the Violation
7. Take and Pass ~~l~~licensure ~~examinations~~ Examination(s)
8. Attend Recovery Support Program
- ~~8-9.~~ Rehabilitation Program
- ~~9-10.~~ Abstain from ~~Controlled Substances~~ Drugs and Alcohol / Submit to Drug and Alcohol Testing
- ~~10.~~ Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing
11. Restricted Practice
12. Restitution
13. Physical Evaluation
14. Monitor Billing System
15. Monitor Billing System Audit
16. Law and Ethics Course

1. **Actual Suspension**

A. Commencing from the effective date of this ~~e~~D~~e~~cision, ~~r~~R~~e~~spondent shall be suspended from the practice of _____ for a period of ____ calendar days.

OR

B. Commencing from the effective date of this ~~e~~D~~e~~cision, ~~r~~R~~e~~spondent shall be suspended from the practice of _____ for a period of ____ calendar days, and such additional time as may be necessary to obtain and review the clinical diagnostic, psychological or psychiatric evaluation, and to implement any recommendations from that evaluation, ~~and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition # _____ (Take and pass licensure examinations).~~

Respondent shall be responsible for informing ~~his or her~~ Respondent's employer of the Board's ~~e~~D~~e~~cision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that ~~r~~R~~e~~spondent is safe to return to practice under specific terms and conditions as determined by the Board.

2. **Psychological / Psychiatric Evaluation**

Within 90 calendar days of the effective date of this ~~e~~D~~e~~cision, and on a periodic basis thereafter as may be required by the Board or its designee, ~~r~~R~~e~~spondent shall complete undergo a psychological or psychiatric evaluation by ~~such licensed psychologists or psychiatrists as are appointed~~ an evaluator approved by the Board or its designee according to the requirements of this section.

The evaluator shall meet all of the following criteria:

1. Holds a current, active, and unrestricted psychologist license issued by the California Board of Psychology; or
2. Holds a current, active, and unrestricted license as a physician and surgeon issued by the Medical Board of California or the Osteopathic Medical Board of California and is certified in psychiatry by the American Board of Psychiatry and Neurology; and
3. Possesses a minimum of two (2) years of experience performing psychological or psychiatric evaluations; and
4. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with Respondent; and
5. Is not currently or previously a supervisor of Respondent as a student, Trainee, Applicant or Associate; and
6. Has never been the subject of a disciplinary action against their license. For the purposes of this section, "disciplinary action" shall mean: the license has been placed on probation, revoked, suspended, reprobated, censured, reprimanded, restricted, limited, or conditioned.

Prior to undergoing an evaluation, Respondent shall submit to the Board or its designee for prior approval a written request by mail or email that includes the name and qualifications of one or more proposed psychologists or psychiatrists. The written request shall include the proposed evaluator's license type, license number and a written statement describing how they meet the criteria for Board approval specified in paragraphs 1 – 6 above. The cost of such evaluation shall be borne by ~~r~~Respondent. Failure to pay for the ~~report~~ evaluation in a timely fashion within the time frame specified by the evaluator constitutes a violation of probation.

~~Such~~ The evaluator shall furnish a written report to the Board or its designee regarding ~~r~~Respondent's judgment and ability to ~~function-practice-independently-and~~ safely as a ~~counselor-licensure~~, and ~~such~~ other information as the Board may require. Respondent shall ~~execute~~ sign a Release of Information authorizing the evaluator to ~~release-all-information-to-communicate-with~~ the Board, and to furnish the Board with a current diagnosis and a written report regarding Respondent's judgment and ability to practice safely. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation being performed. Respondent shall comply with the recommendations of the evaluator.

~~Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), r~~Respondent shall submit in writing by mail or email to the Board or its designee within 30 calendar days of being notified by the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan by each supervisor by which the ~~r~~Respondent's practice will be supervised.

If ~~r~~Respondent is determined to be unable to practice ~~independently-and~~ safely, upon notification, ~~r~~Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified ~~the r~~Respondent of its determination that ~~r~~Respondent may resume practice.

~~(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).~~

3. **Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board according to the requirements of this section. Within ~~15-30~~ calendar days of the effective date of this ~~d~~Decision, ~~r~~Respondent shall submit in writing by mail or email to the Board or its designee for its prior approval the name and qualifications of one or more ~~therapists~~ California licensed mental health professionals of respondent's choice. The written request shall include the proposed professionals' license type, license number and a written statement describing how they meet the criteria for Board approval specified in paragraphs 1 – 6 below.

The mental health professional shall meet all of the following criteria:

1. 1. Holds a current, active, and unrestricted license or registration as a Marriage and Family Therapist, Clinical Social Worker, or Professional Clinical Counselor issued by the California Board of Behavioral Sciences; or
2. 2. Holds a current, active and unrestricted license as a Psychologist issued by the California Board of Psychology; or
3. 3. Holds a current, active and unrestricted license as a Physician and Surgeon license issued by the Medical Board of California or the Osteopathic Medical Board of California and is certified in psychiatry by the American Board of Psychiatry and Neurology; and
4. 4. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with Respondent.
5. 5. Is not currently or previously a supervisor of Respondent as a student, Trainee, Applicant or Associate; and
6. 6. Has never been the subject of a disciplinary action against their license. For the purposes of this section, "disciplinary action" shall mean: the license has been placed on probation, revoked, suspended, reprovved, censured, reprimanded, restricted, limited, or conditioned.

~~Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling~~ Upon approval, psychotherapy shall be provided on an individual basis at least once a week unless otherwise determined by the Board or its designee. Respondent shall continue in such psychotherapy at the Board's discretion. Cost of such psychotherapy is to be borne by Respondent.

~~Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.~~

Respondent shall provide the ~~therapist~~ mental health professional with a copy of the Board's ~~d~~Decision no later than the first counseling psychotherapy session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist mental health professional submits quarterly written reports to the Board concerning Respondent's fitness to practice, and progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute sign a Release of Information authorizing the mental health professional therapist to ~~divulge information to~~ communicate with the Board.

If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the

Board is required until the Board or its designee has notified ~~he/she~~ Respondent that Respondent may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).

4. Clinical Diagnostic Evaluation

Within ~~twenty (20)~~ 30 calendar days of the effective date of the Decision ~~and or at any time upon order of~~ within 30 calendar days of the date of the written order by the Board ~~or its designee~~, Respondent shall undergo a clinical diagnostic evaluation by an evaluator approved by the Board or its designee according to the requirements of this section. Respondent shall ~~provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed~~. Respondent shall submit to the Board or its designee for prior approval a written request by mail or email that includes the name and qualifications, including license number and license type, of one or more proposed evaluators, including a written statement describing how they meet the criteria for Board approval specified in paragraphs 1 – 6 below.

The clinical diagnostic evaluator shall meet all of the following criteria:

1. Holds a current, active and unrestricted license as a Psychologist issued by the California Board of Psychology; or
2. Holds a current, active and unrestricted license as a Physician and Surgeon license issued by the Medical Board of California or the Osteopathic Medical Board of California and is certified in psychiatry by the American Board of Psychiatry and Neurology; and
3. Has three (3) years of experience in conducting clinical evaluations of health professionals with substance use disorders; and
4. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with Respondent; and
5. Is not currently or previously a supervisor of Respondent as a student, Trainee, Applicant or Associate; and
6. Has never been the subject of a disciplinary action against their license. For the purposes of this section, "disciplinary action" shall mean: the license has been placed on probation, revoked, suspended, reprovved, censured, reprimanded, restricted, limited, or conditioned.

Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation being performed. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether Respondent has a substance use disorder, whether Respondent is a threat to self or others, and recommendations for Respondent's substance use disorder treatment, practice restrictions, or other recommendations related to Respondent's rehabilitation and safe practice.

The cost of such evaluation shall be paid by Respondent. Failure to pay for the evaluation within the time frame specified by the evaluator constitutes a violation of probation. Respondent shall sign a Release of Information authorizing the evaluator to communicate with the Board and to furnish the Board with a current diagnosis and a written report regarding Respondent's judgment and ability to practice safely.

Any time ~~the~~ Respondent is ordered to undergo a clinical diagnostic evaluation, ~~his or her Respondent license or registration shall be automatically suspended immediately cease practice~~ for a minimum of ~~one month~~ 30 calendar days pending the results of a clinical diagnostic evaluation. During such time, ~~the~~ Respondent shall submit to random drug and alcohol testing at least two (2) times per week.

~~Respondent shall cause the~~ The evaluator to shall submit to the Board or its designee a written clinical diagnostic evaluation report within ten (10) calendar days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) calendar days, is granted to the evaluator by the Board or its designee for good cause upon written request from the evaluator, mailed or emailed to the Board prior to the expiration date of the 30-day period. "Good cause" includes the inability to complete the evaluation in the time allowed due to the evaluator's or Respondent's personal or family illness or disability, or inability to obtain the necessary patient release authorization, if applicable. Cost of such evaluation shall be paid by the Respondent.

Respondent's ~~license or registration shall remain suspended shall cease practice~~ until the Board determines that ~~he or she~~ Respondent is able to safely practice ~~either full-time or part-time~~ and has had at least one month of negative drug and alcohol test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

5. Supervised Practice

Within 30 calendar days of the effective date of this ~~d~~Decision, ~~r~~Respondent shall submit to the Board or its designee, for its prior approval, a written request by mail or email that includes the name and qualifications of one or more proposed supervisors and a plan for supervision by each proposed supervisor. The plan for supervision shall describe how the supervisor and supervisee will meet the requirements of this section, including frequency, duration and type of supervision. The request shall include each proposed supervisor's license number and license type, and a description of how they meet the criteria for Board approval provided in paragraphs 1-6 below. The supervisor shall be a current California licensed practitioner in respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

The supervisor shall meet all of the following criteria:

1. Holds a current, active and unrestricted California license to practice psychotherapy or psychological counseling. A registration is not considered a license for purposes of qualifying as a supervisor under this term and condition.

2. Has practiced for at least two (2) years immediately preceding any supervision in California or any other state as a licensed professional clinical counselor, licensed marriage and family therapist, psychologist licensed pursuant to Chapter 6.6 (commencing with B&P Code section 2900), licensed clinical social worker, licensed educational psychologist, licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology, or equivalent out-of-state license.
3. Has provided psychotherapy or psychological counseling, or has provided direct clinical supervision of psychotherapy performed by marriage and family therapist trainees, associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers, for at least two (2) years within the five (5)-year period immediately preceding any supervision.
4. Does not have current or prior financial, personal, business, professional, or therapeutic relationship with Respondent.
5. Is not currently or previously a supervisor of Respondent as a student, Trainee, Applicant or Associate.
6. Has never been the subject of a disciplinary action against their license. For the purposes of this section, "disciplinary action" shall mean: the license has been placed on probation, revoked, suspended, reprobated, censured, reprimanded, restricted, limited, or conditioned.

If a supervisor has not been approved by the Board or its designee within 45 calendar days of the effective date of this Decision, Respondent shall cease practice until a supervisor has been approved by the Board or its designee.

The supervisor shall submit quarterly written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of Respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

If respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

- (1) Permitting the respondent to receive supervision via videoconferencing; or,
- (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that respondent provide written documentation of his or her good faith attempts to secure face to face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the respondent's field of practice.

Respondent shall complete any required consent forms sign a Release of Information authorizing the supervisor to communicate with the Board, and sign an agreement with the supervisor and the Board regarding the Respondent's and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion within the time frames specified by the Board shall be a violation of probation. Respondent shall give the supervisor access to Respondent's fiscal and client records. Supervision shall consist of

at least one (1) hour per week in individual face to face meetings. All costs of supervision shall be borne by Respondent. Supervision obtained from a probation supervisor shall not be ~~used~~ accepted by the Board as experience gained toward licensure.

If the supervisor is no longer available, ~~Respondent shall notify~~ submit in writing by mail or email for approval by the Board or its designee within 15-10 calendar days ~~and shall not practice until a new supervisor has been approved by the Board~~ the name and qualifications of one or more proposed new supervisor(s) and a plan for supervision by each supervisor as specified in this section. If a new supervisor is not approved by the Board or its designee within 20 calendar days of the date of the submission of the proposed new supervisor and plan for supervision, Respondent shall not practice until a new supervisor has been approved by the Board or its designee. If Respondent fails to submit a new supervisor for approval or fails to cease practice in accordance with this section when there is no supervisor approved by the Board or its designee, this shall constitute a violation of probation. ~~All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the respondent's therapist.~~

~~[Optional— Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]~~

6. Education Pertaining to the Violation

Respondent shall take and successfully complete ~~the equivalency of _____ semester units~~ hours of Board-approved coursework in each of the following areas _____ . ~~All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a course approved by the Board.~~

Each course selected by Respondent must be approved by the Board prior to completion by Respondent as provided in this section. ~~Classroom attendance must be specifically required.~~ Course content shall be pertinent to the violation and all courses ~~s~~ work must be completed within ~~one year~~ 18 months from the effective date of this Decision.

Within 90 calendar days of the effective date of the decision ~~Respondent shall submit a plan~~ in writing by mail or email for prior Board approval by the Board or its designee for meeting these educational requirements. All courses must be selected from a Board-accepted continuing education provider as specified in Title 16, California Code of Regulations section 1887.4.3. The plan shall include all of the following information for each course proposed:-

1. Name of the course provider.
2. A copy of the course outline or syllabus that contains, at a minimum, the following:
 - a. The title of the educational program;
 - b. Length of the educational program;
 - c. Outline of subject matter to be addressed; and,

d. Instructional mode or methods (for example, in-person or online (live and interactive or asynchronous)).

All costs of the course ~~work-work~~ shall be paid by ~~the~~ Respondent. Units obtained for an approved course shall not be ~~used-accepted by the Board~~ for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing and reporting requirements.)

7. Take and Pass Licensure Examination(s)

Respondent shall take and pass the licensure examination(s) currently required of new applicants for the license possessed by Respondent. Respondent shall not practice until such time as Respondent has taken and passed these examination(s). Respondent shall pay the established examination fee(s) prior to signing up for the examination(s). If Respondent has not taken and passed the examination(s) within twelve months from the effective date of this ~~d~~Decision, Respondent shall be considered to be in violation of probation.

8. Attend Recovery Support Program

Within 30 calendar days of the effective date of this Decision, Respondent shall begin attending a recovery support program approved by the Board or its designee no less than [INSERT frequency number here] times per week. Respondent shall submit in writing via mail or email to the Board or its designee for prior approval the name of one or more recovery support programs, and information about the proposed program that includes the location and the program's elements and methods for providing recovery support services.

Respondent shall provide proof of attendance at said program with each Quarterly Report Form No. DCA BBS 37M-443 (Revised [OAL to insert effective date]) as specified on the Quarterly Report Form. Failure to attend as required, or to show proof of attendance consisting of copies of attendance sheets from the recovery support program provider, or other document prepared by the recovery support group provider verifying Respondent's attendance, shall constitute a violation of probation.

When determining the type and frequency of required recovery support program meeting attendance, the Board shall give consideration to the following:

1. The documented length of sobriety / time that has elapsed since substance use; and
2. The licensee's treatment history; and
3. The nature, duration, and severity of substance use.

8.9. Rehabilitation Program

Within fifteen (15) calendar days from the effective date of ~~the this d~~Decision, ~~r~~Respondent shall begin attending a Board-approved rehabilitation program in accordance with this section. Respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation ~~and~~ monitoring program within fifteen (15) calendar days after the date of written notification of the ~~b~~Board's approval of such program.

Respondent shall successfully complete such treatment contract ~~as may be~~ recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to and communicate with the Board all information the Board deems relevant. ~~The r~~Respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the ~~r~~Respondent's treatment and progress in the program.

Components of the treatment contract shall be relevant to the violation and to ~~the~~ ~~r~~Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random drug and alcohol testing, abstinence from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation ~~or monitoring~~ programs components. All costs of participating in the program(s) shall be borne by ~~the r~~Respondent.

9.10. Abstain from Drugs and Alcohol Controlled Substances / Submit to Drug and Alcohol Testing

Respondent shall completely abstain from the use, ~~or possession~~ or consumption of controlled or illegal substances and alcohol during the period of probation unless it is a controlled substance lawfully prescribed by a medical practitioner for a bona-fide illness ~~or~~ other medical condition.

Respondent shall immediately submit to random and directed drug and alcohol testing, at ~~r~~Respondent's cost, upon request by the Board or its designee. ~~The~~ Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to ~~the~~ Respondent, ~~the~~ Respondent's current employer, and ~~the~~ Respondent's supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for a controlled or illegal substance or alcohol, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if ~~he or she~~ Respondent must submit to drug testing. Respondent shall submit his or her take the drug test on the same day that ~~he or she~~ Respondent is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

10. ~~Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing~~

~~Respondent shall completely abstain from the intake of alcohol during the period of probation.~~

~~Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and to the supervisor, if any, and shall be a violation of probation.~~

~~If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.~~

11. Restricted Practice

Respondent's practice shall be limited to _____. Within 30 calendar days from the effective date of ~~the this~~ ~~d~~Decision, ~~r~~Respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

12. Restitution

Within 90 calendar days of the effective date of this ~~d~~Decision, ~~r~~Respondent shall provide proof to the Board or its designee of restitution in the amount of \$_____ paid to _____.

13. Physical Evaluation

Within 90 calendar days of the effective date of this ~~d~~Decision, and on a periodic basis thereafter as may be required by the Board or its designee, ~~r~~Respondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by ~~r~~Respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding ~~r~~Respondent's judgment and ability to function independently and safely as a therapist and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 calendar days of notification by the Board, Respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the Respondent's physical treatment will be provided.

If Respondent is determined to be unable to practice independently and safely, upon notification Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the Respondent of its determination that Respondent may resume practice.

14. Monitor Billing System

Within ~~fifteen (15)~~ 30 calendar days from the effective date of ~~the this~~ dDecision, Respondent shall obtain the services of a Board-approved independent billing system monitoring service in accordance with this section. Respondent shall submit in writing by mail or email to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. ~~Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the board's approval of such program.~~ Clients ~~are to~~ shall sign documentation stating the dates and times of services rendered by Respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system monitoring service shall submit quarterly written reports concerning Respondent's cooperation with this system. The cost of the service shall be borne by Respondent. Failure to pay for the billing system monitoring service within the time frame specified by the service shall constitute a violation of probation.

15. Monitor Billing System Audit

Within 60 calendar days of the effective date of this dDecision, Respondent shall provide to the Board or its designee in writing by mail or email the names and qualifications of three billing system auditors. The Board or its designee shall select one of the three auditors to annually audit Respondent's billings for compliance with the Monitor Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by Respondent. Failure to pay for the audits ~~in a timely fashion~~ within the time frame specified by the billing system auditor shall constitute a violation of probation.

16. Law and Ethics Course

Respondent shall take and successfully complete the equivalency of two semester units (30 hours) of Board-approved coursework in law and ethics. ~~Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational~~

~~psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required All course(s) selected by Respondent to satisfy this requirement must be approved by the Board prior to completion by Respondent as provided in this section.~~

Within 90 calendar days of the effective date of this Decision, ~~r~~Respondent shall submit a plan in writing by mail or email for prior ~~Board~~ approval by the Board or its designee for meeting this educational requirement. Said course(s) must be taken and completed within ~~one year~~ 18 months from the effective date of this Decision.

All course(s) must be selected from a Board-accepted continuing education provider as specified in Title 16, California Code of Regulations section 1887.4.3. The plan shall include all of the following information for each course proposed:

1. Name of the course provider.
2. A copy of the course outline or syllabus that contains, at a minimum, the following:
 - a. The title of the educational program;
 - b. Length of the educational program;
 - c. Outline of subject matter to be addressed; and,
 - d. Instructional mode or methods (for example, in-person or online (live and interactive or asynchronous)).

The costs associated with the law and ethics course(s) shall be paid by ~~the~~ rRespondent. Units obtained for an approved course in law and ethics shall not be ~~used~~ accepted by the Board for continuing education units required for renewal of licensure.

~~(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)~~

Standard Terms and Conditions of Probation

The ~~sixteen~~ fifteen standard terms and conditions generally appearing in every probation case are as follows:

17. Obey All Laws
18. File Quarterly Reports
19. Comply with Probation Program
20. Interviews with the Board
21. Failure to Practice - Tolling
22. Change of Place of Employment or Place of Residence
23. Supervision of Unlicensed Persons
24. Notification to Clients
25. Notification to Employer
26. Violation of Probation
27. Maintain Valid License
28. License Surrender
29. Instruction of Coursework Qualifying for Continuing Education
- ~~30.~~ Notification to Referral Services
- ~~30~~1. Reimbursement of Probation Program
- ~~31~~2. Cost Recovery

Specific Language for Standard Terms and Conditions of Probation (To be included in all Decisions)

17. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the ~~R~~Respondent to the Board or its designee in writing within ~~seventy-two (72)~~ hours of occurrence. To permit monitoring of compliance with this term, ~~R~~Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 calendar days of the effective date of ~~the this d~~Decision, unless previously submitted as part of the licensure application process fingerprints are currently on file with the Board and Respondent has not been provided with written notice from the Board of the need to submit fingerprints in accordance with Title 16, California Code of Regulations section 1815. For the purposes of this section "on file" means the Board has received notice from the Department of Justice (DOJ) that Respondent has successfully transmitted their fingerprint images to the DOJ for the conduct of a state and federal criminal offender record information search required by section 1815 and the Board currently has access to Respondent's criminal offender record information in the DOJ's database. Respondent shall pay the cost associated with the fingerprint process.

18. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, ~~as scheduled~~ on the "Quarterly Report Form" Form No. DCA BBS 37M-443 (rev. 01/12/01 Revised [OAL to insert effective date]) according to the reporting schedule specified in the Quarterly Report Form. Respondent shall state under penalty of perjury whether ~~he/she~~ Respondent has been in compliance with all of the conditions of probation. ~~Notwithstanding any provision for tolling of requirements of probation, during~~ During the cessation of any practice ~~Respondent shall continue to submit quarterly reports the Quarterly Report Form~~ under penalty of perjury according to the reporting schedule specified in the Quarterly Report Form.

19. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of ~~the~~ Respondent's compliance with the program.

20. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

21. Failure to Practice - Tolling

Respondent's probation is tolled when Respondent ceases practicing or residing in California. Respondent's probation shall not be tolled if Respondent's license has been suspended by the Board. In the event Respondent stops practicing or residing in California, Respondent shall notify the Board or its designee in writing by mail or email a minimum of within 30 calendar days prior to the dates of departure and return to California, or the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding ~~thirty~~ 30 calendar days in which Respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code, as applicable.

Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will not relieve Respondent of the responsibility to comply with the probationary terms and conditions ~~with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.~~

Respondent shall not be relieved of the obligation to maintain an active and current license with the Board (see "Maintain Valid License" term). It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total of two (2) years.

22. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 calendar days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

23. Supervision of Unlicensed Persons

While on probation, ~~the~~ Respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

24. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).

25. Notification to Employer

Respondent shall provide each of ~~his or her~~ Respondent's current or future employers, including any client or third-party for whom Respondent performs or will perform contracted-for services ("contract employer"), when performing services that fall within the scope of practice of ~~his or her~~ Respondent's license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to ~~the~~ Respondent's current employer shall occur no later than the effective date of ~~the~~ this Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

~~The~~ Respondent shall provide in writing by mail or email to the Board the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors employers.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor employer, and the Board to allow the Board to communicate with the employer and supervisor or contract employer regarding the licensee or registrant's Respondent's work status, performance, and monitoring.

26. Violation of Probation

If Respondent violates the conditions of his/her probation, the Board, after giving Respondent notice and the opportunity to be heard by filing and serving on Respondent an accusation and/or petition to revoke probation, may set aside the stay order and impose the discipline (revocation/suspension) of Respondent's license [or registration] provided in the this-dDecision.

If during the period of probation, an accusation, or petition to revoke probation, or statement of issues has been filed against Respondent's license [or registration] or application for licensure, or ~~the~~ if the Board has requested the Attorney General's office has been requested to prepare such an accusation, or petition to revoke probation, or statement of issues, the probation period set forth in this dDecision shall be automatically extended and shall not expire until the accusation, or petition to revoke probation, or statement of issues has been acted upon by the Board. Upon successful completion of probation, Respondent's license [or registration] shall be fully restored.

27. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should Respondent's license, by operation of law or otherwise, expire, upon renewal Respondent's license shall be subject to any and all terms of this probation not previously satisfied.

28. License Surrender

Following the effective date of this dDecision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may ~~voluntarily~~ request the voluntary surrender of his/her Respondent's license to the Board. Such a request shall be submitted in writing by mail or email to the Board and shall include the following: Respondent's name, license number, case number, address of record, and an explanation of the reason(s) why Respondent seeks to surrender their license. The Board reserves the right to evaluate ~~the~~ Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances.

Upon formal acceptance of the surrender, Respondent shall within 30 calendar days deliver Respondent's license and renewal certificate, and if applicable wall certificate, to the Board or its designee and Respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent at

any time after voluntary surrender ever reapply to the Board for licensure. Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

29. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

~~30. Notification to Referral Services~~

~~Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.~~

310. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$_____ \$100 per month, for a total of \$1,200 per year.

321. Cost Recovery

Respondent shall pay the Board \$_____ as and for the reasonable costs of the investigation and prosecution of Case No. _____. ~~Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make payments pursuant to a payment plan specified by the Board or its designee taking into consideration all of the following: (1) Respondent's ability to pay, (2) the total amount of cost recovery owed, and (3) the length of the probationary period.~~ Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the following: ~~cost recovery payment for~~ "Cost Recovery: Case No. _____". ~~In lieu of a check or money order, Respondent may make an electronic payment via credit card through the Department of Consumer Affairs' BreEZe online system, which can be accessed at <https://www.breeze.ca.gov>.~~

Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the ~~outlined~~ specified payment schedule, Respondent shall be considered to be in violation of probation. A period of non-practice by Respondent shall not relieve Respondent of ~~his or her~~ Respondent's obligation to reimburse the ~~B~~board for its costs.

Cost recovery must be completed ~~six months~~ 180 calendar days prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

IV. BOARD POLICIES AND GUIDELINES

Accusations

The Board of Behavioral Sciences (Board) has the authority pursuant to sSection 125.3 of the Business and Professions Code (B&P Code) to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the aAccusation.

Statement of Issues

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

Stipulated Settlements

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary or licensing decisions. ~~The r~~Respondent should be informed that in order to stipulate to settlement with the Board, ~~he or she~~ Respondent may be required to admit to the violations set forth in the Accusation or Petition to Revoke Probation, or to admit that grounds for denial exist or were proven as described in the Statement of Issues. ~~The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.~~

Recommended Language for License Surrenders

~~"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.~~

~~The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.~~

Contingency

~~This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.~~

~~Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a _____ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.~~

~~The respondent further agrees that with the adoption by the Board of his or her license surrender, respondent may not petition the Board for reinstatement of the surrendered license.~~

~~Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited, to filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.~~

~~Respondent understands that should he or she ever reapply for licensure as a _____ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. _____ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."~~

Surrender of License in Lieu of Revocation

Respondent _____ surrenders [Insert Type and License No.] as of the effective date of this Decision. Respondent shall relinquish and forward or deliver their license to practice [Insert License Type] and wall certificate to the Board within ten (10) calendar days of the effective date of this Decision. The surrender of Respondent's license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This Decision constitutes disciplinary action by the Board and shall become a part of Respondent's license history with the Board.

Recommended Probation Language for Applicants for Registration~~Applicants~~

~~IT IS HEREBY ORDERED THAT~~ Respondent _____ [INSERT RESPONDENT'S NAME] be issued a Registration as a _____ [INSERT RESPONDENT'S LICENSE TYPE] upon successful completion of all registration requirements. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on _____ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

For purposes of this Order, and consistent with Business and Professions Code sections 23.7 and 23.8, all references to the word "license" or "licensee" contained in any term or condition shall also be interpreted as meaning "registration" or "registrant," respectively.

Recommended Probation Language for Registrants

~~IT IS HEREBY ORDERED THAT~~ _____ [INSERT RESPONDENT'S REGISTRATION TYPE] Registration Number _____ [INSERT RESPONDENT'S REGISTRATION NUMBER] issued to Respondent _____ [INSERT RESPONDENT'S NAME] is revoked. The revocation will be stayed and ~~Respondent~~ placed on _____ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

For purposes of this Order, and consistent with Business and Professions Code sections 23.7 and 23.8, all references to the word "license" or "licensee" contained in any term or condition shall also be interpreted as meaning "registration" or "registrant," respectively.

Recommended Probation Language for Licensees

~~IT IS HEREBY ORDERED THAT~~ _____ [INSERT RESPONDENT'S LICENSE TYPE] License Number _____ [INSERT RESPONDENT'S LICENSE NUMBER] issued to Respondent _____ [INSERT RESPONDENT'S NAME] is revoked. The revocation will be stayed and ~~Respondent~~ placed on _____ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if ~~Respondent~~ is granted another registration or license regulated by the Board.

Recommended Revocation of License Language for Licensees or Registrants

[INSERT RESPONDENT'S LICENSE TYPE] License Number [INSERT RESPONDENT'S LICENSE NUMBER] issued to Respondent [INSERT NAME], is revoked.

Respondent shall relinquish and forward or deliver their wall license and current renewal certificate, if applicable, to the Board within ten (10) calendar days of the effective date of this Decision. Respondent may not reapply or petition the Board for reinstatement of their revoked license for three (3) years or later from the effective date of this Decision, or, if, applicable, the relevant timeframe specified in section 4990.30 of the Business and Professions Code.

[Note to users: For unprofessional conduct cases, the Board may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two (2) years instead of three (3) years per Business and Professions Code section 4990.30. If a shorter reinstatement filing period is specified here, an explanation shall be included in this Decision of the pertinent facts or circumstances that warrant recommendation of the imposition of the shorter, two-year filing period.]

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$ _____ within thirty (30) calendar days of the effective date of this Decision.

If cost recovery is not paid at the time Respondent petitions for reinstatement or applies for a new license, as a condition precedent to reinstatement of their revoked license or for a new license, Respondent shall reimburse the Board for its costs of investigation and prosecution in the amount

of \$. Said amount shall be paid in full prior to the reinstatement of Respondent's license unless otherwise ordered by the Board.

Proposed Decisions

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section(s) violated with the definition of the eCode in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fFact if ~~he or she~~ Respondent is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions (17-321) as they may pertain to the particular case. If ~~the r~~Respondent fails to appear for ~~his or her~~ their scheduled hearing or does not submit a notice of defense, such inaction shall result in a ~~d~~Default ~~d~~Decision to revoke licensure or deny application.

Reinstatement / Reduction of Penalty Hearings

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations sSection 1814, and (2) the evidence of rehabilitation presented by the petitioner ~~of his or her rehabilitation~~. The Board is not interested in retrying the original revocation or probation case. The Board shall consider the criteria outlined in sSection 1814.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code sSection ~~4982.2-4990.30~~, the petitioner has the burden of demonstrating that ~~he or she~~ the petitioner has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical ~~counselor~~ counseling within the scope of current law, and accepted standards of practice.

In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. ~~The petitioner's attitude toward his or her commission of the original violations and his or~~

~~her attitude in regard to compliance with legal sanctions and rehabilitative efforts~~
Whether the petitioner has demonstrated a recognition of wrongdoing;

D. The petitioner's documented rehabilitative efforts;

E. Assessment of the petitioner's rehabilitative and corrective efforts;

F. Activities of the petitioner since the disciplinary action was taken;

G. The petitioner's activities during the time petitioner's license was in good standing (unrestricted);

H. The petitioner's general reputation for truth;

I. The petitioner's professional ability.

J. In addition, the Board may consider other appropriate and relevant matters not reflected above.

Denial of a Petition for Reinstatement or Reduction of Penalty (Petition)

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a ~~p~~Petitioner fails to appear for ~~his or her~~ their scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the ~~p~~Petitioner's presence and the Board ~~will~~ shall issue a decision based on the written evidence and any oral presentations submitted.

Recommended Model Order Language for Denial of a Petition

The petition for reinstatement/reduction of penalty filed by Petitioner _____ is hereby denied.

Recommended Language to Grant Petition with No Restrictions on License/Registration

The petition for reinstatement filed by Petitioner _____ is hereby granted, and Petitioner's [INSERT LICENSE TYPE], License No. [INSERT LICENSE NO.] shall be fully restored.

Recommended Language to Grant Petition and Place Licensee/Registrant on Probation

The petition for reinstatement filed by Petitioner _____ is hereby granted, and Petitioner's [INSERT LICENSE TYPE], License No. [INSERT LICENSE NO.] shall be reinstated and immediately revoked; however, the revocation shall be stayed and the Petitioner shall be placed on probation for a period of _____ years on the following terms and conditions:

Recommended Language to Grant Petition and Place License/Registration on Probation After Completion of Conditions Precedent

The petition for reinstatement filed by _____ is hereby granted and Petitioner's [INSERT LICENSE/REGISTRATION TYPE] [INSERT: registration/license] will be reinstated upon completion of the following conditions precedent: (examples would be: paying restitution, cost recovery (as required by Business and Professions Code section 125.3 if not already paid), completion of continuing education or law and ethics courses, or take and pass licensure examinations (e.g., California Law and Ethics Examination)).

Petitioner shall not practice until all conditions precedent have been met and the [INSERT: LICENSE/REGISTRATION TYPE] has been issued. Petitioner shall complete the aforementioned conditions within [INSERT TIMEFRAME (months/year(s))] from the effective date of this decision or the petition shall be deemed abandoned.

[Note to users: If the condition precedent involves taking and passing the California Law and Ethics examination, please include the following model language in the order: Petitioner shall take and pass the California Law and Ethics Examination within one (1) year of the effective date of this order. Petitioner shall take and pass the California Law and Ethics Examination currently required for the [INSERT LICENSE TYPE] [INSERT: registration/license]. Petitioner shall have one opportunity to take and pass this examination. Petitioner shall submit a completed initial application for this examination. Petitioner shall pay the established examination fee(s) as set forth in Title 16, California Code of Regulations section 1816.2.]

Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a [INSERT: REGISTRATION/LICENSE TYPE], Petitioner's [INSERT: registration/license] shall be reinstated. Upon reinstatement, Petitioner's [INSERT: registration/license] shall be immediately revoked, the revocation shall be stayed, and Petitioner's [INSERT: registration/license] shall be placed on probation for a period of [INSERT PERIOD OF PROBATION] under the following terms and conditions: [INSERT STANDARD TERMS AND CONDITIONS OF PROBATION AND ANY APPLICABLE OPTIONAL TERMS.]