

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend ~~Sections 480 and~~ Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 ~~of of~~, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure*: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and Affairs. Existing law authorizes a board to ~~deny~~ deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the

business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

~~This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.~~ *revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.*

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would repeal that authorization.

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board’s decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a conviction
- 5 following a plea of nolo contendere, contendere or finding of guilt.
- 6 Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for
 2 appeal has elapsed, or the judgment of conviction has been affirmed
 3 on appeal or when an order granting probation is made suspending
 4 the imposition of sentence, irrespective of a subsequent order under
 5 the provisions of Section 1203.4 of the Penal Code: *sentence*.
 6 However, a board may not deny a license to an applicant who is
 7 otherwise qualified pursuant to subdivision (b) *or* (c) of Section
 8 480.

9 **Nothing**

10 (b) *Nothing* in this section shall apply to the licensure of persons
 11 pursuant to Chapter 4 (commencing with Section 6000) of Division
 12 3.

13 (c) *Except as provided in subdivision (b), this section controls*
 14 *over and supersedes the definition of conviction contained within*
 15 *individual practice acts under this code.*

16 **SECTION 1.**

17 **SEC. 2.** Section 480 of the Business and Professions Code is
 18 amended to read:

19 480. (a) ~~A(1)~~ *Notwithstanding any other provision of this*
 20 *code, a board may deny a license regulated by this code on the*
 21 *grounds that the applicant has one of the following: been convicted*
 22 *of a crime or has been subject to formal discipline only if either*
 23 *of the following conditions are met:*

24 ~~(1) Been convicted of a crime. A conviction within the meaning~~
 25 ~~of this section means a plea or verdict of guilty or a conviction~~
 26 ~~following a plea of nolo contendere. Any action that a board is~~
 27 ~~permitted to take following the establishment of a conviction may~~
 28 ~~be taken when the time for appeal has elapsed, or the judgment of~~
 29 ~~conviction has been affirmed on appeal, or when an order granting~~
 30 ~~probation is made suspending the imposition of sentence,~~
 31 ~~irrespective of a subsequent order under the provisions of Section~~
 32 ~~1203.4, 1203.4a, or 1203.41 of the Penal Code.~~

33 ~~(2) Done any act involving dishonesty, fraud, or deceit with the~~
 34 ~~intent to substantially benefit himself or herself or another, or~~
 35 ~~substantially injure another.~~

36 ~~(3) (A) Done any act that if done by a licentiate of the business~~
 37 ~~or profession in question, would be grounds for suspension or~~
 38 ~~revocation of license.~~

39 ~~(B) The board may deny a license pursuant to this subdivision~~
 40 ~~only if the crime or act is substantially related to the qualifications;~~

1 ~~functions, or duties of the business or profession for which~~
2 ~~application is made.~~

3 (A) *The applicant has been convicted of a crime for which the*
4 *applicant is presently incarcerated or for which the conviction*
5 *occurred within the preceding five years. However, the preceding*
6 *five year limitation shall not apply to a conviction for a violent*
7 *felony, as defined in Section 667.5 of the Penal Code.*

8 *The board may deny a license pursuant to this subparagraph*
9 *only if the crime is directly and adversely related to the*
10 *qualifications, functions, or duties of the business or profession*
11 *for which application is made.*

12 (B) *The applicant has been subjected to formal discipline by a*
13 *licensing board within the preceding five years based on*
14 *professional misconduct that would have been cause for discipline*
15 *before the board for which the present application is made and*
16 *that is directly and adversely related to the qualifications,*
17 *functions, or duties of the business or profession for which the*
18 *present application is made. However, prior disciplinary action*
19 *by a licensing board within the preceding five years shall not be*
20 *the basis for denial of a license if the basis for that disciplinary*
21 *action was a conviction that has been dismissed pursuant to Section*
22 *1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable*
23 *dismissal or expungement.*

24 (2) *Denial of a license includes denial of an unrestricted license*
25 *by issuance of a restricted or probationary license.*

26 (b) *Notwithstanding any other provision of this code, a person*
27 *shall not be denied a license solely on the basis that he or she has*
28 *been convicted of a ~~nonviolent crime.~~ crime, or on the basis of*
29 *acts underlying a conviction for a crime, if he or she has obtained*
30 *a certificate of rehabilitation under Chapter 3.5 (commencing with*
31 *Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been*
32 *granted clemency or a pardon by a state or federal executive, or*
33 *has made a showing of rehabilitation pursuant to Section 482.*

34 (c) *Notwithstanding any other provision of this code, a person*
35 *shall not be denied a license on the basis of any conviction, or on*
36 *the basis of the acts underlying the conviction, that has been*
37 *dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the*
38 *Penal Code, or a comparable dismissal or expungement. An*
39 *applicant who has a conviction that has been dismissed pursuant*
40 *to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code*

1 shall provide proof of the dismissal if it is not reflected on the
2 report furnished by the Department of Justice.

3 (d) Notwithstanding any other provision of this code, a board
4 shall not deny a license on the basis of an arrest that resulted in
5 a disposition other than a conviction, including an arrest that
6 resulted in an infraction, citation, or a juvenile adjudication.

7 ~~(e)~~

8 (e) A board may deny a license regulated by this code on the
9 ground that the applicant knowingly made a false statement of fact
10 that is required to be revealed in the application for the license. A
11 board shall not deny a license based solely on an applicant's
12 failure to disclose a fact that would not have been cause for denial
13 of the license had it been disclosed.

14 (f) A board shall follow the following procedures in requesting
15 or acting on an applicant's criminal history information:

16 (1) A board shall not require an applicant for licensure to
17 disclose any information or documentation regarding the
18 applicant's criminal history.

19 (2) If a board decides to deny an application based solely or in
20 part on the applicant's conviction history, the board shall notify
21 the applicant in writing of all of the following:

22 (A) The denial or disqualification of licensure.

23 (B) Any existing procedure the board has for the applicant to
24 challenge the decision or to request reconsideration.

25 (C) That the applicant has the right to appeal the board's
26 decision.

27 (D) The processes for the applicant to request a copy of his or
28 her complete conviction history and question the accuracy or
29 completeness of the record pursuant to Sections 11122 to 11127
30 of the Penal Code.

31 (g) (1) For a minimum of three years, each board under this
32 code shall retain application forms and other documents submitted
33 by an applicant, any notice provided to an applicant, all other
34 communications received from and provided to an applicant, and
35 criminal history reports of an applicant.

36 (2) Each board under this code shall retain the number of
37 applications received for each license and the number of
38 applications requiring inquiries regarding criminal history. In
39 addition, each licensing authority shall retain all of the following
40 information:

1 (A) *The number of applicants with a criminal record who*
2 *received notice of denial or disqualification of licensure.*

3 (B) *The number of applicants with a criminal record who*
4 *provided evidence of mitigation or rehabilitation.*

5 (C) *The number of applicants with a criminal record who*
6 *appealed any denial or disqualification of licensure.*

7 (D) *The final disposition and demographic information,*
8 *including, but not limited to, voluntarily provided information on*
9 *race or gender, of any applicant described in subparagraph (A),*
10 *(B), or (C).*

11 (3) (A) *Each board under this code shall annually make*
12 *available to the public through the board's Internet Web site and*
13 *through a report submitted to the appropriate policy committees*
14 *of the Legislature deidentified information collected pursuant to*
15 *this subdivision. Each board shall ensure confidentiality of the*
16 *individual applicants.*

17 (B) *A report pursuant to subparagraph (A) shall be submitted*
18 *in compliance with Section 9795 of the Government Code.*

19 (h) *"Conviction" as used in this section shall have the same*
20 *meaning as defined in Section 7.5.*

21 (i) *This section supersedes any contradictory provision in a*
22 *licensing act under this code or initiative act referred to in Division*
23 *2 (commencing with Section 500) that authorizes license denial*
24 *based on a criminal conviction, arrest, or the acts underlying an*
25 *arrest or conviction.*

26 *SEC. 3. Section 481 of the Business and Professions Code is*
27 *amended to read:*

28 481. (a) ~~Each board under the provisions of this code shall~~
29 ~~develop criteria to aid it, when considering the denial, suspension~~
30 ~~suspension, or revocation of a license, to determine whether a~~
31 ~~crime or act is substantially~~ *is directly and adversely related to the*
32 *qualifications, functions, or duties of the business or profession it*
33 *regulates.*

34 (b) *Criteria for determining whether a crime is directly and*
35 *adversely related to the qualifications, functions, or duties of the*
36 *business or profession a board regulates shall include all of the*
37 *following:*

38 (1) *The nature and gravity of the offense.*

39 (2) *The number of years elapsed since the date of the offense.*

1 (3) *The nature and duties of the profession in which the*
 2 *applicant seeks licensure or in which the licensee is licensed.*

3 (c) *A board shall not deny a license based in whole or in part*
 4 *on a conviction without considering evidence of rehabilitation.*

5 (d) *Each board shall post on its Internet Web site a summary*
 6 *of the criteria used to consider whether a crime is considered to*
 7 *be directly and adversely related to the qualifications, functions,*
 8 *or duties of the business or profession it regulates consistent with*
 9 *this section.*

10 SEC. 4. *Section 481.5 is added to the Business and Professions*
 11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*
 13 *license by a board shall be limited to two years or less. Any*
 14 *additional conditions may be imposed only if the board determines*
 15 *that there is clear and convincing evidence that additional*
 16 *conditions are necessary to address a risk shown by clear and*
 17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*
 19 *when considering the imposition of probationary conditions or*
 20 *restrictions to determine what conditions may be imposed to*
 21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*
 23 *has been placed on probation may petition the board for a change*
 24 *to the probation, including modification or termination of*
 25 *probation, one year from the effective date of the decision. The*
 26 *board shall issue its decision on the petition within 90 days of*
 27 *submission of the petition. The petition shall be deemed granted*
 28 *by operation of law if the board does not file a decision denying*
 29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*
 31 *termination of penalty shall control over longer time periods under*
 32 *a licensing act under this code or initiative act referred to in*
 33 *Division 2 (commencing with Section 500).*

34 SEC. 5. *Section 482 of the Business and Professions Code is*
 35 *amended to read:*

36 482. (a) *Each board under ~~the provisions of~~ this code shall*
 37 *develop criteria to evaluate the rehabilitation of a person ~~when:~~*
 38 *when doing either of the following:*

39 (a)

1 (1) Considering the denial of a license by the board under
2 Section ~~480~~, or 480.

3 ~~(b)~~

4 (2) Considering suspension or revocation of a license under
5 Section 490.

6 ~~Each~~

7 ~~(b) Each board shall take into account all competent evidence~~
8 ~~of rehabilitation furnished by the applicant or licensee. find that~~
9 ~~an applicant or licensee has made a showing of rehabilitation if~~
10 ~~any of the following are met:~~

11 ~~(1) The applicant or licensee has completed the criminal~~
12 ~~sentence at issue without a violation of parole or probation.~~

13 ~~(2) (A) The applicant or licensee documents that he or she has~~
14 ~~worked in a related field continuously for at least one year prior~~
15 ~~to licensure or successfully completed a course of training in a~~
16 ~~related field, unless the board finds a public record of an official~~
17 ~~finding that the applicant committed professional misconduct in~~
18 ~~the course of that work.~~

19 ~~(B) Work in a related field may include, but is not limited to,~~
20 ~~work performed without compensation and work performed while~~
21 ~~incarcerated.~~

22 ~~(C) "Related field," for purposes of this paragraph, means a~~
23 ~~field of employment whose duties are substantially similar to the~~
24 ~~field regulated by the board.~~

25 ~~(3) The applicant or licensee has satisfied criteria for~~
26 ~~rehabilitation developed by the board.~~

27 ~~SEC. 6. Section 488 of the Business and Professions Code is~~
28 ~~amended to read:~~

29 488. Except as otherwise provided by law, following a hearing
30 requested by an applicant pursuant to subdivision (b) of Section
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing
33 requirements by the applicant.

34 (b) Grant the license effective upon completion of all licensing
35 requirements by the applicant, *grant the license and immediately*
36 *issue a public reproof pursuant to Section 495,* immediately
37 revoke the license, stay the revocation, and impose probationary
38 conditions on the license, which may include suspension.

39 (c) Deny the license.

1 (d) Take other action in relation to denying or granting the
2 license as the board in its discretion may deem proper.

3 *SEC. 7. Section 490 of the Business and Professions Code is*
4 *amended to read:*

5 490. (a) (1) In addition to any other action that a board is
6 permitted to take against a licensee, a board may suspend or revoke
7 a license on the ground that the licensee has been convicted of a
8 crime, ~~if the crime is substantially related to the qualifications,~~
9 ~~functions, or duties of the business or profession for which the~~
10 ~~license was issued.~~ *crime for which the applicant is presently*
11 *incarcerated or for which the conviction occurred within the*
12 *preceding five years. However, the preceding five year limitation*
13 *shall not apply to a conviction for a violent felony, as defined in*
14 *Section 667.5 of the Penal Code.*

15 (2) *The board may suspend or revoke a license pursuant to this*
16 *subdivision only if the crime is directly and adversely related to*
17 *the qualifications, functions, or duties of the business or profession*
18 *for which application is made.*

19 (b) Notwithstanding any other provision of law, a board may
20 exercise any authority to discipline a licensee for conviction of a
21 crime that is independent of the authority granted under subdivision
22 (a) only if ~~the both of the following are met:~~

23 (1) ~~The crime is substantially directly and adversely related to~~
24 ~~the qualifications, functions, or duties of the business or profession~~
25 ~~for which the licensee's license was issued.~~

26 (2) ~~The licensee was convicted of the crime within the preceding~~
27 ~~five years or is presently incarcerated for the crime. However, the~~
28 ~~preceding five year limitation shall not apply to a conviction for~~
29 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

30 (c) ~~A conviction within the meaning of this section means a~~
31 ~~plea or verdict of guilty or a conviction following a plea of nolo~~
32 ~~contendere. An action that a board is permitted to take following~~
33 ~~the establishment of a conviction may be taken when the time for~~
34 ~~appeal has elapsed, or the judgment of conviction has been affirmed~~
35 ~~on appeal, or when an order granting probation is made suspending~~
36 ~~the imposition of sentence, irrespective of a subsequent order under~~
37 ~~Section 1203.4 of the Penal Code.~~

38 (d) ~~The Legislature hereby finds and declares that the application~~
39 ~~of this section has been made unclear by the holding in Petropoulos~~
40 ~~v. Department of Real Estate (2006) 142 Cal.App.4th 554, and~~

1 ~~that the holding in that case has placed a significant number of~~
2 ~~statutes and regulations in question, resulting in potential harm to~~
3 ~~the consumers of California from licensees who have been~~
4 ~~convicted of crimes. Therefore, the Legislature finds and declares~~
5 ~~that this section establishes an independent basis for a board to~~
6 ~~impose discipline upon a licensee, and that the amendments to this~~
7 ~~section made by Chapter 33 of the Statutes of 2008 do not~~
8 ~~constitute a change to, but rather are declaratory of, existing law.~~

9 *(c) Notwithstanding any other provision of this code, a board*
10 *shall not suspend or revoke a license on the basis of a conviction,*
11 *or of the acts underlying a conviction, where that conviction has*
12 *been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or*
13 *1203.42 of the Penal Code or a comparable dismissal or*
14 *expungement.*

15 *(d) Notwithstanding any other provision of this code, a board*
16 *shall not suspend or revoke a license on the basis of an arrest that*
17 *resulted in a disposition other than a conviction, including an*
18 *arrest that resulted in an infraction, citation, or juvenile*
19 *adjudication.*

20 *(e) The board shall use the following procedures in requesting*
21 *or acting on a licensee's criminal history information:*

22 *(1) A board shall not require a licensee to disclose any*
23 *information or documentation regarding the licensee's criminal*
24 *history.*

25 *(2) If a board chooses to file an accusation against a licensee*
26 *based solely or in part on the licensee's conviction history, the*
27 *board shall notify the licensee in writing of the processes for the*
28 *licensee to request a copy of the licensee's complete conviction*
29 *history and question the accuracy or completeness of his or her*
30 *criminal record pursuant to Sections 11122 to 11127, inclusive,*
31 *of the Penal Code.*

32 *(f) (1) For a minimum of three years, each board under this*
33 *code shall retain all documents submitted by a licensee, notices*
34 *provided to a licensee, all other communications received from or*
35 *provided to a licensee, and criminal history reports of a licensee.*

36 *(2) Each board under this code shall retain all of the following*
37 *information:*

38 *(A) The number of licensees with a criminal record who received*
39 *notice of potential revocation or suspension of their license or who*
40 *had their license suspended or revoked.*

1 (B) *The number of licensees with a criminal record who*
 2 *provided evidence of mitigation or rehabilitation.*

3 (C) *The number of licensees with a criminal record who*
 4 *appealed any suspension or revocation of a license.*

5 (D) *The final disposition and demographic information,*
 6 *including, but not limited to, voluntarily provided information on*
 7 *race or gender, of any applicant described in subparagraph (A),*
 8 *(B), or (C).*

9 (3) (A) *Each board under this code shall annually make*
 10 *available to the public through the board’s Internet Web site and*
 11 *through a report submitted to the appropriate policy committees*
 12 *of the Legislature deidentified information collected pursuant to*
 13 *this subdivision. Each board shall ensure the confidentiality of the*
 14 *individual licensees.*

15 (B) *A report pursuant to subparagraph (A) shall be submitted*
 16 *in compliance with Section 9795 of the Government Code.*

17 (g) (1) *This section supersedes any contradictory provision in*
 18 *a licensing act under this code or initiative act referred to in*
 19 *Division 2 (commencing with Section 500) that authorizes action*
 20 *based on a criminal conviction, arrest, or the acts underlying an*
 21 *arrest or conviction.*

22 (2) *This section shall not prohibit any agency from taking*
 23 *disciplinary action against a licensee for professional misconduct*
 24 *in the course and scope of the licensee’s profession that is based*
 25 *on evidence that is independent of an arrest.*

26 *SEC. 8. Section 490.5 of the Business and Professions Code*
 27 *is repealed.*

28 ~~490.5. A board may suspend a license pursuant to Section~~
 29 ~~17520 of the Family Code if a licensee is not in compliance with~~
 30 ~~a child support order or judgment.~~

31 *SEC. 9. Section 492 of the Business and Professions Code is*
 32 *amended to read:*

33 492. (a) *Notwithstanding any other provision of law, successful*
 34 *completion of any diversion program under the Penal Code,*
 35 *successful completion by a licensee or applicant of any*
 36 *nonstatutory diversion program, deferred entry of judgment, or*
 37 *successful completion of an alcohol and drug problem assessment*
 38 *program under Article 5 (commencing with Section 23249.50) of*
 39 *Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit*
 40 *any agency established under Division 2 (commencing with Section*

1 500) of this code, or any initiative act referred to in that division,
2 board from taking disciplinary action against a licensee or from
3 denying a license for professional misconduct, notwithstanding
4 that evidence of that misconduct may be recorded in a record
5 pertaining to an arrest. *misconduct.*

6 This section shall not be construed to apply to any drug diversion
7 program operated by any agency established under Division 2
8 (commencing with Section 500) of this code, or any initiative act
9 referred to in that division.

10 (b) This section shall not prohibit any agency established under
11 Division 2 (commencing with Section 500) of this code, or any
12 initiative act referred to in that division, from taking disciplinary
13 action against a licensee for professional misconduct in the course
14 and scope of the profession, which is based on evidence that is
15 independent of an arrest.

16 SEC. 10. Section 493 of the Business and Professions Code is
17 amended to read:

18 493. (a) Notwithstanding any other provision of law, in a
19 proceeding conducted by a board within the department pursuant
20 to law to deny an application for a license or to suspend or revoke
21 a license or otherwise take disciplinary action against a person
22 who holds a license, upon the ground that the applicant or the
23 licensee has been convicted of a crime ~~substantially~~ *directly and*
24 *adversely* related to the qualifications, functions, and duties of the
25 licensee in question, the record of conviction of the crime shall be
26 conclusive evidence of the fact that the conviction occurred, but
27 only of that fact, and the board may inquire into the circumstances
28 surrounding the commission of the crime in order to fix the degree
29 of discipline or to determine if the conviction is substantially
30 related to the qualifications, functions, and duties of the licensee
31 in question. *fact.*

32 (b) (1) Criteria for determining whether a crime is directly and
33 adversely related to the qualifications, functions, or duties of the
34 business or profession the board regulates shall include all of the
35 following:

36 (A) The nature and gravity of the offense.

37 (B) The number of years elapsed since the date of the offense.

38 (C) The nature and duties of the profession.

1 (2) A board shall not categorically bar an applicant based solely
2 on the type of conviction without considering evidence of
3 rehabilitation.

4 As

5 (c) As used in this section, “license” includes “certificate,”
6 “permit,” “authority,” and “registration.”

7 SEC. 11. Section 1005 of the Business and Professions Code
8 is amended to read:

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,
12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
13 710, 716, 730.5, 731, and 851 are applicable to persons licensed
14 by the State Board of Chiropractic Examiners under the
15 Chiropractic Act.

16 ~~SEC. 2.~~

17 SEC. 12. Section 11345.2 of the Business and Professions Code
18 is amended to read:

19 11345.2. (a) An individual shall not act as a controlling person
20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,
22 or been convicted of, a felony. If the individual’s felony conviction
23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
24 of the Penal Code, the bureau may allow the individual to act as
25 a controlling person.

26 (2) The individual has had a license or certificate to act as an
27 appraiser or to engage in activities related to the transfer of real
28 property refused, denied, canceled, or revoked in this state or any
29 other state.

30 (b) Any individual who acts as a controlling person of an
31 appraisal management company and who enters a plea of guilty
32 or no contest to, or is convicted of, a felony, or who has a license
33 or certificate as an appraiser refused, denied, canceled, or revoked
34 in any other state shall report that fact or cause that fact to be
35 reported to the office, in writing, within 10 days of the date he or
36 she has knowledge of that fact.

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