



Board of Behavioral Sciences

Memo

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To: Policy & Advocacy Committee Members

Date: January 5, 2023

From: Christy Berger
Regulatory Analyst

Subject: Discussion of Proposed Enforcement Regulations

A number of revisions are proposed to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (Revised December 2020, and incorporated by reference into Title 16, California Code of Regulations (16 CCR) section 1888). In addition, there are changes proposed to several regulation sections related to the enforcement process.

Background

The "Uniform Standards Related to Substance Abuse" portion of the Disciplinary Guidelines document is based on the Uniform Standards created in response to SB 1441 (Chapter 549, Statutes of 2008) which required the Department of Consumer Affairs (DCA) to establish the Substance Abuse Coordination Committee and develop such standards. The purpose was to address the increasing problem of substance use in the healthcare professions, and address inconsistent standards among licensing boards.

The proposed revisions to the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (Uniform Standards/Disciplinary Guidelines, Attachment A) was initially presented to the Policy and Advocacy Committee in July 2022 and again in October 2022. This memo will focus on areas that have changed significantly since the October 2022 meeting.

Proposed Changes

Note – Page number references refer to the page number in the bottom left-hand corner of the Uniform Standards/Disciplinary Guidelines document.

1. Amendment to CCR §1888 and Uniform Standards (Page 4): Violations Involving Abuse of Drugs and/or Alcohol

Draft language was originally presented to the Committee at its meeting in July 2022 and has been updated after review by DCA regulation unit attorneys. The proposed changes to section 1888 (see Attachment C) clarify that if a violation involves drugs

and/or alcohol, then the violation is presumed to be a substance abuse violation. If the licensee does not successfully rebut the presumption, then the Uniform Standards apply. The same language is included as a prelude in the Uniform Standards document (Attachment A).

A paragraph clarifying the process of determining who is a “substance abusing licensee” is also proposed to be added to section I (page 4) of the Uniform Standards, and also clarifies the existing requirement that the Uniform Standards must be used in lieu of any similar terms and conditions in the Disciplinary Guidelines, and that the standard and optional conditions should still be used in formulating the penalty or probationary order to effect greater public protection.

2. Introduction to Uniform Standards/Disciplinary Guidelines Document (Page 1)

Makes clarifying changes and informs the reader that all disciplinary actions will be published online.

3. Uniform Standards (page 5)

Specifies that the clinical diagnostic evaluator must not have a “current or prior” financial, personal, business or therapeutic relationship with the licensee.

II. PENALTY GUIDELINES (Section II, Pages 15 - 33)

Introductory Page and Minimum Penalty Column Heading (Page 15, and Pages 17-33)

The proposed amendments would add clarifications and additional explanations to the introductory page of the Penalty Guidelines chapter with the intent of assisting Administrative Law Judges when selecting the penalties for each case. Thus, the Minimum Penalty column heading in each category now asks that the introductory page be read before penalties are selected.

1. Penalty Guidelines (Page 16): Engaging in Sexual Contact with Client and Engaging in Act with a Minor Punishable as a Sexually Related Crime

The Minimum Penalty and Maximum Penalty columns for these violations that require outright revocation or denial of license in every case have been stricken, as there is no minimum or maximum – both are the same. The heading now just says “Penalty.”

2. 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.

Previously, staff had included the same minimum and maximum penalties used for the unprofessional conduct violation of *“Intentionally / Recklessly Causing Physical or Emotional Harm to Client.”* However, at its October 2022 meeting, the Committee directed staff to change the penalties to instead require outright revocation or denial of license due to the severity of impacts that this violation has on these vulnerable clients.

3. Penalty Guidelines (Page 28): Improper Supervision

At the July 2022 and October 2022 meetings, the Committee discussed the penalties for this section, and determined that suspension of license and supervised practice should be moved to the maximum penalty column. When a licensee is on probation they are already not allowed to supervise, and in some cases the licensee may be a good clinician but not a good supervisor, and thus may be no risk to their own clients.

4. Penalty Guidelines (Page 29): Violations of the Chapter or Regulations Involving Supervision of Experience Hours / Violations Involving Acquisition and Supervision of Required Hours of Experience

This category has been split into two for clarity, as these are separate violations. The listed penalties have not changed.

III. MODEL DISCIPLINARY ORDERS

Introduction (Page 35)

The proposed amendments would provide clarifications and define “designee.”

Optional Terms and Conditions of Probation

1. Clinical Diagnostic Evaluation (Page 36)

The latest amendments would:

- Prohibit the evaluator from having a current or prior financial, personal, business, professional or therapeutic relationship with the Respondent.
- Specify that an extension for the Board’s receipt of the evaluation must be for good cause, as defined.

2. Psychological/Psychiatric Evaluation (Page 37)

The latest amendments would:

- Require the evaluator to simply have experience performing psychological or psychiatric evaluations, as opposed to knowledge, training and experience “in the area involved in the violation.”

Optional Terms and Conditions of Probation (continued)

- Prohibit the evaluator from having a current or prior financial, personal, business, professional or therapeutic relationship with the Respondent.
- Require the Respondent to provide the evaluator with a copy of the Board's Decision prior to the evaluation being performed.

3. Psychotherapy (Page 38)

The latest amendments would:

- Allow a registrant to provide psychotherapy.
- Strike the requirement that the therapist has knowledge, training and experience "in the area involved in the violation."
- Prohibit the therapist from having a current or prior financial, personal, business, professional or therapeutic relationship with the Respondent.
- Strike the requirement that the therapist not be the Respondent's supervisor, as a professional relationship between the Respondent and therapist would be prohibited as provided in item #2 in the same section.
- Require the psychotherapy be provided on an individual rather than group basis.

4. Supervised Practice (Page 40)

The latest amendments would:

- Strike the requirement that the supervisor have knowledge, training and experience "in the area involved in the violation."
- Prohibit the supervisor from having a current or prior financial, personal, business, professional or therapeutic relationship with the Respondent.
- Specify how Respondent must proceed should their supervisor no longer be available, including:
 - a. Require Respondent to submit for approval the name and qualifications of a new supervisor within 15 working days.
 - b. Clarify that if Respondent does not secure a new Board-approved supervisor within 30 days, Respondent shall not practice until a new supervisor is approved. This allows an abundant amount of time for the Board to vet and approve a new supervisor.

5. Education Pertaining to the Violation (Page 41)

The latest amendments would specify that the plan for completion submitted by the Respondent must contain the name of the course(s), length, and a copy of the course outline or syllabus.

Optional Terms and Conditions of Probation (continued)

6. Take and Pass Licensure Examination(s) (Page 42)

This penalty was originally proposed to be stricken. However, DCA Legal strongly recommended that it remain. Minor changes to the existing text are proposed for clarity.

7. New: Attend Recovery Support Program (Page 42)

The latest amendments would:

- Specify that Respondent must begin attending meetings within 30 days of the effective date of the Decision.
- Clarify that it may be a recovery support program or a facilitated group led by a mental health professional trained in alcohol and drug use treatment.
- Specify acceptable proof of attendance.
- Clarify that Respondent must continue attending the group for the duration of probation unless notified by the Board otherwise.

8. New: Relapse Prevention Plan (Page 43)

Completion of a relapse prevention plan had originally been proposed as a new optional term of probation. However, it is now proposed to be stricken completely.

This term was originally proposed because sometimes the Respondent does not meet the criteria to enter a rehabilitation program, and this would be a potential alternative. After the October 2022 meeting, staff consulted with DCA Legal, and it was clarified that if a rehabilitation program is included as a penalty and the Respondent does not meet the criteria of the program, the Board can reduce the penalty.

In addition, at its October 2022 meeting, the Committee discussed the necessity of this term since there is already the option of requiring the Respondent to attend a recovery support program. There were also questions as to the efficacy of such a term in the context of probation. The Committee directed staff to gather information from another Board that has been requiring a relapse prevention plan. The Board of Registered Nursing (BRN) was contacted, and staff spoke to their Probation Manager.

BRN requires respondents to complete a BRN-developed relapse prevention plan form. The Probation Manager said that it is helpful in a diversion program, but has not been particularly helpful in a probation program. First, we discussed how it is common for individuals in recovery to relapse, even with a plan in place. But the bigger issue in his opinion is that, when a Respondent relapses, their license is automatically suspended as required by the Uniform Standards, and it doesn't

Optional Terms and Conditions of Probation (continued)

matter that they have a plan – they will be treated no differently. So in a way it can feel misleading to respondents who may assume because they have a plan that the Board may allow for something other than a license suspension when a relapse occurs.

Lastly, when a Respondent petitions for reinstatement to a full and unrestricted license, per the Uniform Standards a licensee must demonstrate that they have a relapse prevention plan.

9. Law and Ethics Course (Page 46)

The latest amendments specify that the plan for completion submitted by the Respondent must contain the name of the course(s), length, and a copy of the course outline or syllabus.

Standard Terms and Conditions of Probation

10. File Quarterly Reports (Page 47)

Specifies that the “Quarterly Report Form” referenced in regulations must be submitted according to the reporting schedule specified by the Board, and that failure to submit as specified may be a violation of probation. In addition, the Quarterly Report form has been revised (see Attachment B).

11. Failure to Practice/Tolling (Pg. 48)

Defines “good cause” for failure to practice for two years (normally considered a violation of probation) as including, but not limited to, a personal or family illness or disability.

IV. BOARD POLICIES AND GUIDELINES

1. Stipulated Settlements (Page 52)

Strike language providing direction to the Deputy Attorney General as it is not necessary.

2. Reinstatement/Reduction of Penalty Hearings (Page 56)

Add pertinent language from statute (BPC section 4990.30) as listed in items H and I, and replace language about the petitioner’s “attitude” with language that instead pertains to the petitioner’s cooperation with the Board’s investigation, other law enforcement or regulatory agencies, and/or the injured parties.

3. Recommended Language for Reinstatement (Pages 56-57)

Provide recommended language for reinstatement of a registration or license.

RELATED REGULATION SECTIONS

1. Amendments to 16 CCR §§ 1845 (LMFT), 1858 (LEP), and 1881 (LCSW)

The proposed amendments strike language that duplicates statute, and is therefore unnecessary, and is provided in Attachment C.

2. Amendments to 16 CCR §§ 1845 (Amount of Fines: Confidentiality of Medical Information Act)

“Failure to maintain confidentiality” is listed as unprofessional conduct in statute for each of the Board’s license types. The Confidentiality of Medical Information Act (CMIA) begins with Civil Code (CC) section 56. CC section 56.36 specifies the amount of fines that may be levied for disclosing confidential information.

Section 1886.40 of the Board’s regulations defines a “citable offense” and lists the amount of fines the Board may levy. It provides for a fine of up to \$5,000 for unlawful or unauthorized breach of confidentiality. This amount was derived from CC section 56.36. Thus, DCA Legal has advised that the CMIA should be referenced in section 1845, which is provided in Attachment C.

Recommendation

Conduct an open discussion of the proposed regulations. Direct staff to make any discussed changes and any non-substantive changes to the proposed language and recommend to the Board for consideration as a regulation proposal.

Attachments

- A. Proposed Changes to Uniform Standards/Disciplinary Guidelines
- B. Proposed Changes to Quarterly Report Form
- C. Proposed Changes to Title 16, CCR sections 1845, 1856, 1881, 1886.40 and 1888

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Attachment A

**NOTE: CHANGES PRIOR TO THE OCTOBER 2022
COMMITTEE MEETING ARE SHOWN IN BLUE**

**CHANGES AFTER THE OCTOBER 2022 COMMITTEE
MEETING ARE SHOWN IN ORANGE**

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, 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 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 must appear in all cases involving probation; and

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 §section 125.9 and Title 16 California Code of Regulations §section 1886. All disciplinary actions will be published on the Internet 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 Business and Professions 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" apply depends on whether the licensee is found to be a substance abusing licensee. If the conduct found to be a violation involves ~~the abuse of controlled substances~~ drugs and/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 Related to Substance Abuse" 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 Related to Substance Abuse" do not have to be used.

If applicable, these conditions shall be used in lieu of any similar standard or optional terms and conditions proposed in the Guidelines, unless otherwise specified. However, the Board's standard and optional conditions 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~~ 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 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) 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 ~~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~~ Suspension;
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 (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 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 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 and monitoring 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 pages 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 eChapter III “Model Disciplinary Orders.” (with the exception of revocation). The penalties (terms and conditions of probation), for the purposes of this document, are divided into two general categories:

- Standard Terms and Conditions: These conditions of probation must appear in all cases involving probation.
- Optional Terms and Conditions: Conditions of probation that 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.

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	Maximum Penalty
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	Engaging in Sexual Contact with Client / Former Client	- Revocation / Denial of license or registration - Cost recovery. <u>The law requires revocation/denial of license.</u>	Revocation / Denial of license or registration Cost recovery. The law requires revocation/denial of license or registration.
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)	Engaging in in Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act o ccurred p prior to or a fter r egistration or l icensure. O r R Engaging in an a ct d escribed in Section 261, 286, 287 288a , or 289 of the Penal code with a m inor or an a ct d escribed 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.	- Revocation / Denial of license or registration - Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.	Revocation / Denial of license or registration Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.
LMFT: B&P §§ 865.1, 865.2 LCSW: B&P §§ 865.1, 865.2 LEP: B&P §§ 865.1, 865.2 LPCC: B&P §§ 865.1, 865.2 GP: B&P §§ 865.1, 865.2	<u>Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18</u>	<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 <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u>	Maximum Penalty
LMFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(l), 4992.33 CCR § 1881(f) LEP: B&P § 4989.58 B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729)	• 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 • Reimbursement of probation program <u>costs</u> And if warranted, • eEnter and complete a rehabilitation <u>and monitoring</u> program approved by the Board; abstain from controlled substances/use of alcohol, submit to drug and alcohol <u>and controlled substances</u> testing; • RRestricted practice, reimbursement of probation program costs.	• Revocation / Denial of license or registration • Cost recovery. (See B&P § 4982.26, 4989.58, <u>4990.40</u>, 4992.33) The Board considers this reprehensible offense to warrant revocation/denial.

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(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	Commission of an Act Punishable as a Sexually Related Crime	• 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 And if warranted, • RRestricted practice-	• 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</u> <u>before selecting penalties</u>	Maximum Penalty
LMFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: <u>B&P §</u> , 4989.54(c) LPCC: B&P § 4999.90(c) GP: B&P § 480, 820	Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency	• 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- <u>In addition:</u> • MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy- • PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice • CHEMICAL DEPENDENCY Random drug and alcohol <u>and controlled substances</u> testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; <u>psycho</u>therapy; rehabilitation <u>and monitoring</u> program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice-	• 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(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	Chemical Dependency for Use of Drugs <u>Controlled Substances or Alcohol</u> With Client While Performing Services	• 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 drug and alcohol <u>and controlled substances</u> 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 <u>and monitoring</u> program • Abstain from controlled substances/use of alcohol • Cost recovery • Reimbursement of probation program costs • And if warranted, • pPsychotherapy; • rRestricted practice • <u>Attend recovery support program</u> • Relapse prevention plan	• 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 <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u>	Maximum Penalty
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	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	• Revocation stayed • 60-120 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 • Cost recovery • Reimbursement of probation program costs • And if warranted; • pPsychological/psychiatric evaluation; • pPsychotherapy; • rRestricted practice.	• Revocation / Denial of license or <u>registration</u> application • 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(d) LCSW: B&P § 4992.3(d) <u>and (e)</u> CCR § 1881(m) LEP: B&P § 4989.54(k) LPCC: B&P § 4999.90(d) GP: B&P § 480	Gross Negligence / Incompetence	- Revocation stayed 60-90 days <u>actual</u> suspension; <u>5 years 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 - Cost recovery - Reimbursement of probation program costs; <u>And if warranted:</u> p<u>P</u>Psychological/psychiatric evaluation; p<u>P</u>Psychotherapy; r<u>R</u>ehabilitation <u>and monitoring</u> program; <u>Attend recovery support program</u> Relapse prevention plan a<u>A</u>bstain from controlled substances/use of alcohol; s<u>S</u>ubmit to drug and alcohol <u>and controlled substances</u> testing; r<u>R</u>estricted practice-	- 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 <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u>	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	• Revocation stayed • 60-90 days <u>actual</u> 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> - And if warranted: • pPsychological/psychiatric evaluation; • pPsychotherapy; • RRehabilitation <u>and monitoring</u> program; • <u>Attend recovery support program</u> • Relapse prevention plan • <u>Abstain from controlled substances/use of alcohol</u> • <u>Submit to drug and alcohol and controlled substances testing</u> • abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; • RRestricted practice; • law and ethics course.	• 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 Note: <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u>	Maximum Penalty
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	Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee- Registrant	• 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 (Costs and conditions of probation depend on the nature of the criminal offense). <u>In addition:</u> CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation <u>and monitoring</u> program; restricted practice. <u>DRUGS AND ALCOHOL AND CONTROLLED SUBSTANCES:</u> Add: Random drug and alcohol <u>and controlled substances</u> testing, psychological, psychiatric, <u>or</u> clinical diagnostic evaluation; psychotherapy; supervised practice, <u>rehabilitation and monitoring</u> program; abstain from controlled substances/use of alcohol, and if warranted: <u>attend recovery support program; relapse prevention plan;</u> restricted practice. FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation <u>and monitoring</u> program; restricted practice.	• 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(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	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	• Revocation stayed • 30-60 days <u>actual</u> 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 <u>And if warranted:</u> • p<u>P</u>Psychological/psychiatric evaluation; • s<u>S</u>upervised practice; • p<u>P</u>sychotherapy; • t<u>T</u>ake and pass licensure exams; • r<u>R</u>estricted practice.	• Revocation / Denial of license or registration • Cost recovery.
LMFT: B&P § 4980.02 , 4982(l), 4982(s), 4982(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(t) GP: B&P § 480	Performing, Representing Able <u>Ability</u> to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	• Revocation stayed • 30-60 days <u>actual</u> 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 <u>And if warranted:</u> • p<u>P</u>Psychological/psychiatric evaluation; • s<u>S</u>upervised practice; • p<u>P</u>sychotherapy; • t<u>T</u>ake and pass licensure exams; • r<u>R</u>estricted practice.	• 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 § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	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.	- 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	- Revocation / Denial of license or registration application; - Cost recovery-	- 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	- 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-	- Revocation / Denial of license or registration - Cost recovery-
LMFT: B&P § 4982(q), <u>4982(ab)</u> LCSW: B&P § 4992.3(r), <u>4992.3(z)</u> CCR § 1881(l) LEP: B&P § 4989.54(s), <u>4989.54(z)</u> LPCC: B&P § 4999.90(q), <u>4999.90(aa)</u> GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	- 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	- 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(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	• Revocation stayed • 60-90 days <u>actual</u> 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	• Revocation / Denial of license <u>or registration</u> • Cost recovery
LMFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	• Revocation stayed • 30-90 days <u>actual</u> 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 <u>And if warranted:</u> • Supervised practice.	• Revocation / Denial of license <u>or 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 <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	• 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 • Cost recovery • Reimbursement of probation program costs	• Revocation / Denial of license or registration • Cost recovery
LMFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	• 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.	• Revocation / Denial of license or registration • Cost recovery
LMFT: B&P § 4982(r), 4982(t), 4982(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(u)	Improper Supervision of Trainee / Intern / Associate / Supervisee	• 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:</u> • supervised practice.	• 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 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 <u>Note:</u> <u>See Introduction to Penalty Guidelines on Page 15 before selecting penalties</u>	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 / <u>Violations Involving Acquisition and Supervision of Required Hours of Experience</u>	• 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 • <u>3-5 years probation; 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.	• Revocation / Denial of license or registration • Cost recovery
<u>LMFT: B&P § 4982(u)</u> <u>LCSW: B&P § 4992.3(s)</u> <u>LEP: B&P § 4989.54(ac)</u> <u>LPCC: B&P § 4999.90(u)</u> <u>GP: B&P § 480</u>	<u>Violations Involving Acquisition and Supervision of Required Hours of Experience</u>	• <u>Revocation stayed</u> • <u>3-5 years probation; standard terms and conditions</u> • <u>Rejection of all illegally acquired hours</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>	• <u>Revocation / Denial of license</u> • <u>Cost recovery</u>
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	• 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	• 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(n) LCSW: B&P § 4992.3(o) CCR § 1881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	• Revocation stayed • 1 year probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation stayed • 30 days actual suspension • 2 years probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs
LMFT: B&P § 4980.46, 4982(p) LCSW: B&P § 4992.3(q) CCR § 1881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	• Revocation stayed • 1 year probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation stayed • 30-60 days actual suspension • 5 years probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • 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	• Revocation stayed • 1 year probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation stayed • 30 days actual suspension • 1-3 years probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • 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
LMFT: B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x) LPCC: B&P § 4999.90(ad)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code (Client Access to Records)	• Revocation stayed • 1 year probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation stayed • 30 days actual suspension • 1-3 years probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs
LMFT: B&P § 4982(z) LCSW: B&P § 4992.3(x) LEP: B&P § 4989.54(d) LPCC: B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 (Telehealth)	• Revocation stayed • 1 year probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery; • Reimbursement of probation program costs.	• Revocation stayed • 30 days actual suspension • 1-3 years probation; standard terms and conditions • Standard terms and conditions • Education pertaining to the violation • Law and ethics course • 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
LMFT: B&P §§ 865.1, 865.2 LCSW: B&P §§ 865.1, 865.2 LEP: B&P §§ 865.1, 865.2 LPCC: B&P §§ 865.1, 865.2 GP: B&P §§ 865.1, 865.2	Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18	• Revocation stayed • 90-120 days suspension • 5 years probation; standard terms and conditions • Supervised practice • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs • Psychological/psychiatric evaluation • Psychotherapy • Restricted practice	• Revocation / Denial of license • Cost recovery
LMFT: CCR § 1845(e) LCSW: CCR § 1881(q) LEP: CCR § 1858(c) LPCC: CCR § 1823 (a)	Failure to Provide Records to the Board Within 15 Days of Receipt of Request	• Revocation stayed • 60-90 days suspension • 3-5 years probation; standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation / Denial of license • Cost recovery
LMFT: CCR § 1845(f) LCSW: CCR § 1881(r) LEP: CCR § 1858(d) LPCC: CCR § 1823(b)	Failure to Cooperate and Participate in a Pending Board Investigation	• Revocation stayed • 60-90 days suspension • 3-5 years probation; standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation / Denial of license • 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 Note: See Introduction to Penalty Guidelines on Page 15 before selecting penalties	Maximum Penalty
LMFT: CCR § 1845(g) LCSW: CCR § 1881(s) LEP: CCR § 1858(e) LPCC: CCR § 1823(c)	Failure to Report to the Board within 30 Days: • A Felony or Misdemeanor Conviction, or • Any Disciplinary Action Taken by Another Licensing Entity or Governmental Authority	• Revocation stayed • 60-90 days suspension • 3-5 years probation; standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation / Denial of license • Cost recovery
LMFT: CCR § 1845(i) LCSW: CCR § 1881(u) LEP: CCR § 1858(g) LPCC: CCR § 1823(e)	Failure to Comply with a Court Order Mandating Release of Records to the Board	• Revocation stayed • 60-90 days suspension • 3-5 years probation; standard terms and conditions • Education pertaining to the violation • Law and ethics course • Cost recovery • Reimbursement of probation program costs	• Revocation / Denial of license • Cost recovery

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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 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 ~~which~~ must 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 - 4617) 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 4718 - 32).

Note: The term “designee” refers to the Executive Officer, Assistant Executive Officer, Enforcement Program Manager, and Probation Monitor, 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. Clinical Diagnostic Evaluation
- ~~2.3.~~ Psychological / Psychiatric eEvaluation
- ~~3.4.~~ Psychotherapy
- ~~4.~~ Clinical Diagnostic Evaluation
5. Supervised Practice
6. Education Pertaining to the Violation
7. Take and Pass Licensure ~~e~~E examinations
8. Attend Recovery Support Program
9. Relapse Prevention Plan
- ~~8.10.~~ Rehabilitation and Monitoring Program
- ~~9.11.~~ Abstain from Controlled Substances/Submit to Random Drug and Alcohol and Controlled Substances Testing
- ~~10.~~ Abstain from Use of Alcohol /Submit to Random Drug and Alcohol Testing
- ~~11.12.~~ Restricted Practice
- ~~12.13.~~ Restitution
- ~~13.14.~~ Physical Evaluation
- ~~14.15.~~ Monitor Billing System
- ~~15.16.~~ Monitor Billing System Audit
- ~~16.17.~~ 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 ____ 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 ____ 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. Clinical Diagnostic Evaluation

Within 30 days of the effective date of this Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation by an evaluator approved by the Board or its designee. The Board shall approve any evaluator who meets all of the following criteria:

1. Holds a valid, unrestricted California license with a scope of practice that allows a licensee to conduct a clinical diagnostic evaluation. A registration is not considered a license for purposes of qualifying as an evaluator.
2. Has three (3) years of experience in conducting evaluations of health professionals with substance use disorders.
3. Does not have a **current or prior** financial, personal, business, professional, or therapeutic relationship with the Respondent.

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 evaluators.

The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance use disorder, whether the licensee is a threat to self or others, and recommendations for substance use disorder treatment, practice, restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The cost of such evaluation shall be borne by Respondent. Failure to pay for the **report evaluation timely 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. Respondent shall provide the evaluator with a copy of the

Board's Decision prior to the evaluation being performed.

Any time Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent's license shall be automatically suspended for a minimum of 30 days pending the results of the evaluation. During such time, Respondent shall submit to random alcohol and controlled substances testing at least two (2) times per week.

The evaluator shall submit a written clinical diagnostic evaluation report, and other information as the Board may require, to the Board or its designee within 10 days from the date the evaluation was completed unless an extension, not to exceed 30 days, is granted to the evaluator by the Board or its designee for good cause. "Good cause" includes, but is not limited to, 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.

Respondent shall not practice until the Board determines that Respondent is able to safely practice and has had at least one month of negative alcohol and controlled substances test results. Respondent shall comply with any restrictions or recommendations made by the Board or its designee as a result of the clinical diagnostic evaluation.

2.3. Psychological / Psychiatric Evaluation

Within 90 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 ~~undergo~~ a psychological or psychiatric evaluation by ~~such licensed psychologists or psychiatrists as are appointed~~ an evaluator approved by the Board or its designee. The Board shall approve any evaluator who meets all of the following criteria:

1. Holds a valid, unrestricted psychologist license issued by the California Board of Psychology; or
2. Holds a valid, 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 knowledge, training, and experience in the area involved in the violation performing psychological or psychiatric evaluations; and
4. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with the Respondent.

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 evaluator shall provide an objective, unbiased, and independent evaluation. 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, and other information as the Board may

require, to the Board or its designee regarding Respondent's judgment and ability to function 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. 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), Respondent shall submit in writing by mail or email to the Board or its designee within 30 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 Respondent's practice will be supervised.~~

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.

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

3.4. Psychotherapy

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within ~~45-30~~ days of the effective date of this Decision, 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 mental health professionals of respondent's choice. The Board shall approve any mental health professional who meets all of the following criteria:

1. Holds a valid, unrestricted California license or registration as a mental health professional that allows for the practice of psychotherapy;
2. Possesses knowledge, training, and experience in the area involved in the violation.
2. Does not have a current or prior financial, personal, business, professional, or therapeutic relationship with the Respondent.
4. Is not the Respondent's supervisor.

~~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 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 or its designee, ~~r~~Respondent shall undergo and continue treatment at the same type and frequency until the Board or its designee determines that a reduction or change is warranted or that no further psychotherapy is necessary to ensure Respondent continues to safely practice.

Respondent shall take all necessary steps to ensure that the treating psychotherapist mental health professional submits quarterly written reports to the Board concerning ~~r~~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 ~~r~~Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, ~~r~~Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that ~~r~~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 ~~r~~Respondent that he/she 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) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.~~

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

~~Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of~~

~~such evaluation shall be paid by the Respondent.~~

~~Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full time or part time and has had at least one month of negative drug 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 days of the effective date of this ~~d~~Decision, ~~r~~R~~e~~spondent 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 proposed supervisors and a plan for supervision by each supervisor. If a supervisor has not been approved within 45 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 be a current California licensed practitioner in respondent's field of practice, who

The Board shall approve any supervisor who meets all of the following criteria:

1. Holds a valid, unrestricted California license to practice psychotherapy. A registration is not considered a license for purposes of qualifying as a supervisor.
2. Has practiced as a licensed mental health professional in California or any other state for at least two (2) years immediately preceding any supervision.
3. Has provided psychotherapy, 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. ~~Possesses knowledge, training, and experience in the area involved in the violation.~~
5. Does not have current or prior financial, personal, business, professional, or therapeutic relationship with the Respondent.
6. Is not the Respondent's clinical experience supervisor.

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 rRespondent'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 on a quarterly basis~~ 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 as experience gained toward licensure.

If the supervisor is no longer available, ~~Respondent~~ shall notify the Board within ~~15~~ three (3) working days ~~and shall not practice until a new supervisor has been approved by the Board. Respondent shall submit in writing by mail or email for approval the name and qualifications of one or more proposed new supervisor(s) and a plan for supervision by each supervisor, within 15 working days from the date Respondent notified the Board, for approval by the Board or its designee. If Respondent fails to submit a new supervisor for approval, this shall constitute a violation of probation. If a new supervisor is not approved by the Board or its designee within 30 calendar days, Respondent shall not practice until a new supervisor has been approved. 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 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.~~

All courses 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 course-work must be completed within ~~one year~~ 18 months (or the time frame approved by the Board or its designee) from the effective date of this Decision.

Within 90 days of the effective date of ~~the this~~ 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:-

- Name of the course provider
- A copy of the course outline or syllabus that contains, at a minimum, the following:
 - (1) The title of the educational program;
 - (2) Length of the educational program;
 - (3) Outline of subject matter to be addressed; and,
 - (4) Instructional mode or methods.

All costs of the course-work shall be paid by the ~~r~~R Respondent. Units obtained for an approved course shall not be ~~used-accepted~~ 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 exam~~ination~~ination(s) currently required of new applicants for the license possessed by ~~r~~R Respondent. Respondent shall not practice until such time as ~~r~~R Respondent has taken and passed these ~~specified~~ examination(s). Respondent shall pay the established examination fee(s) prior to signing up for the examination(s). If ~~r~~R Respondent has not taken and passed the examination(s) within twelve months from the effective date of this ~~d~~D Decision, ~~r~~R Respondent ~~shall be considered to be in this shall constitute a~~ violation of probation.

8. Attend Recovery Support Program

Within thirty (30) days of the effective date of the Decision, Respondent shall begin and continue attendance at a recovery support program or a facilitated group led by a mental health professional trained in alcohol and drug use treatment approved by the Board or its designee no less than _____ times per week.

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

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

Respondent shall provide proof of attendance at said program with each quarterly report consisting of copies of attendance sheets from the support/recovery group provider, or other document prepared by the support/recovery group provider verifying Respondent's

attendance. Failure to attend, or to show proof of such attendance, shall constitute a violation of probation. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board or its designee that attendance is no longer required.

9. Relapse Prevention Plan

Within fifteen (15) days from the effective date of this Decision, Respondent shall submit in writing to the Board or its designee a relapse prevention plan. A relapse prevention plan means a written document prepared by Respondent or an authorized mental health professional on behalf of Respondent that outlines the steps Respondent will take to avoid relapse, and the measures to be taken if relapse does occur. The plan shall be relevant to the violation and to Respondent's current status in recovery or rehabilitation. The plan shall provide, at a minimum, identification of, and a specific course of action or coping strategies for responding to all of the following:

1. Physical, emotional, psychological, social or environmental triggers.
2. Cravings and events that can cause or accelerate those cravings.
3. Early warning signs of possible relapse as identified by Respondent.

8.9. Rehabilitation and Monitoring Program

Within fifteen (15) days from the effective date of ~~the this d~~Decision, ~~r~~Respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation and monitoring program(s). Respondent shall ~~enter~~ begin and continue attendance in a rehabilitation and monitoring program within fifteen (15) days after 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 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 and controlled substance testing, abstention from ~~drugs~~ controlled substances 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 s components. All costs of participating in the program(s) shall be borne by ~~the r~~Respondent.

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

Respondent shall completely abstain from the use or possession of alcohol and controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona-fide illness.

Respondent shall immediately submit to random and directed drug and alcohol and controlled substances 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 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 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 days from the effective date of ~~the~~ this dDecision, ~~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 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 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 days of notification by the Board, ~~r~~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 ~~r~~Respondent's physical treatment will be provided.

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.

14. Monitor Billing System

Within fifteen (15) days from the effective date of ~~the this~~ ~~d~~Decision, ~~r~~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 ~~b~~Board's approval of such program. Clients are to sign documentation stating the dates and time of services rendered by ~~r~~Respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning ~~r~~Respondent's cooperation with this system. The cost of the service shall be borne by ~~r~~Respondent. Failure to pay for the monitoring within the time frame specified by the billing monitoring program shall constitute a violation of probation.

15. Monitor Billing System Audit

Within 60 days of the effective date of this ~~d~~Decision, ~~r~~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 ~~r~~Respondent's billings for compliance with the 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 ~~r~~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~~ hours of 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 courses must be approved by the Board prior to completion by Respondent as provided in this section.

Within 90 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 (or the time frame approved by the Board or its designee) from the effective date of this Decision.

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:

- Name of the course provider
- A copy of the course outline or syllabus that contains, at a minimum, the following:
 - (1) The title of the educational program;
 - (2) Length of the educational program;
 - (3) Outline of subject matter to be addressed; and,
 - (4) Instructional mode or methods.

The costs associated with the law and ethics course(s) shall be paid by ~~the~~ ~~r~~Respondent. Units obtained for an approved course in law and ethics shall not be used-accepted 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 days of the effective date of ~~the this d~~Decision, unless previously submitted as part of the licensure application process and are currently on file with the Board. 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" (~~rev. 01/12/01~~ Revised [date to be inserted by OAL upon approval]). ~~Respondent shall state under penalty of perjury whether he/she has been in compliance with all the conditions of probation.~~ Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice ~~Respondent shall continue to submit quarterly reports the~~ this Quarterly Report form under penalty of perjury.

This Quarterly Report form shall be submitted according to the reporting schedule specified by the Board or its designee. Failure to submit this Quarterly Report form as specified may constitute a violation of probation.

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 and/or residing in California. Respondent may not request to have probation tolled if their license has been suspended by the Board. In the event ~~Respondent~~ stops practicing and/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 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~~ 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~~ 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. Absent good cause, as approved by the Board, the failure to practice for a total of two (2) years shall be a violation of probation. "Good cause" may include, but is not limited to, Respondent's personal or family illness or disability.~~

22. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 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, 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 ~~contractors contract employment~~, 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.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or ~~contractor contract employer~~, and the Board to allow the Board to communicate with the employer and supervisor or ~~contractor 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, may seek to set aside the stay order and impose the discipline (revocation/suspension) of Respondent's license for registration provided in the this dDecision by filing an accusation and/or petition to revoke probation or statement of issues.

If during the period of probation, an accusation, or petition to revoke probation, or statement of issues has been filed against Respondent's license for 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 Bboard. Upon successful completion of probation, Respondent's license for 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. 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.~~ 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~~ Respondent shall be considered to be in violation of probation. A period of non-practice by ~~Respondent~~ Respondent shall not relieve ~~Respondent~~ Respondent of ~~his or her~~ Respondent's obligation to reimburse the ~~B~~Board for its costs.

Cost recovery must be completed ~~six months~~ 180 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 decisions. The rRespondent 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 Statement of Issues, or Petition to Revoke Probation. ~~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 aAccusation, 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 dDecision and eOrder.

Contingency

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 Respondent's counsel. By signing the stipulation, Respondent understands and agrees that he/she may to not withdraw his/her the 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.

Order

~~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, 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."~~

1. The surrender of Respondent's [INSERT LICENSE TYPE] license to the Board, and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.
2. Respondent shall lose all rights and privileges as a [INSERT LICENSE TYPE] in California as of the effective date of the Board's Decision and Order.
3. Respondent shall cause to be delivered to the Board Respondent's current renewal certificate, and wall license if applicable, on or before the effective date of this Decision and Order.
4. Respondent further agrees that with the adoption by the Board of Respondent's license surrender, Respondent may not petition the Board for reinstatement of the surrendered license.
5. Respondent may reapply to the Board for licensure three (3) years or later from the effective 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.
6. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$_____ prior to the issuance of a new registration or license.

7. If Respondent should ever reapply for a new license, registration or certification, or petition for reinstatement of a license or registration issued by the Board, or any other health care licensing agency in the State of California, all of the charges contained in Accusation No. [INSERT CASE NUMBER] shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication.

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

IT IS HEREBY ORDERED THAT Respondent _____[INSERT RESPONDENT'S NAME] be issued a ~~R~~registration as a _____[INSERT RESPONDENT'S LICENSE TYPE] upon successful completion of all registration requirements. Said ~~R~~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 ~~R~~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 ~~R~~Respondent placed on _____years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if ~~R~~Respondent is granted another registration or license regulated 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 (1-167) followed by the Standard Terms and Conditions (178-32) 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~~ The petitioner has cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;
- F. All 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;
- H. The petitioner's general reputation for the truth;
- I. The petitioner's professional ability.
- J. In addition, the Board may consider other appropriate and relevant matters not reflected above.

Recommended Language for Denial

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 not go forth without the ~~p~~Petitioner's presence and the Board ~~will~~ shall issue a default decision for revocation prepared by the Deputy Attorney General based on the written evidence ~~and oral presentations submitted.~~

Recommended Language for Reinstatement of a Registration

The petition for reinstatement filed by _____ is hereby granted and Petitioner will be issued a [INSERT REGISTRATION TYPE] registration upon completion of the following conditions precedent. Petitioner shall not practice until all conditions precedent have been met and the registration has been issued. All conditions precedent must be successfully met within 1 (one) year of the effective date of this order unless otherwise stated below.

1. Take and Pass California Law and Ethics Examination. Petitioner shall take and pass the California Law and Ethics Examination currently required of associates for the [INSERT REGISTRATION TYPE] registration. 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).

2. Submit Application for Associate Registration. Petitioner shall submit an application for an [INSERT REGISTRATION TYPE] registration. Petitioner shall pay the established application fee to the Board.
1. Optional: Pay costs. Prior to the reinstatement of the registration, Petitioner shall pay the Board \$ _____ in costs.

Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a registration, Petitioner's registration shall be reinstated. Upon reinstatement, Petitioner's registration shall be immediately revoked, the revocation shall be stayed, and Petitioner's registration shall be placed on probation for a period of [INSERT PERIOD OF PROBATION] under the following terms and conditions:

Recommended Language for Reinstatement of a License

The petition for reinstatement filed by _____ is hereby granted and Petitioner will be issued a _____ [INSERT LICENSE TYPE] license upon completion of the following conditions precedent. Petitioner shall not practice until all conditions precedent have been met and the license has been issued. All conditions precedent must be successfully met within 1 (one) year of the effective date of this order unless otherwise stated below.

1. Take and Pass California Law and Ethics Examination. Petitioner shall take and pass the California Law and Ethics Examination currently required of new applicants for the [INSERT LICENSE TYPE] 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).
2. Take and Pass Licensure Examination. Petitioner shall take and pass the licensure examination(s) currently required of new applicants for a [INSERT LICENSE TYPE] license. Petitioner shall have one opportunity to take and pass this examination. Petitioner shall submit a completed initial application for this examination (if applicable). Petitioner shall pay the established examination fee(s).
3. Submit Application for Licensure. Petitioner shall submit an initial license application for a [INSERT LICENSE TYPE] license. Petitioner shall pay the established application fee to the Board.
4. Optional: Pay costs. Prior to the reinstatement of the license, Petitioner shall pay the Board \$ _____ in costs.

Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a license, Petitioner's license shall be reinstated. Upon reinstatement, Petitioner's license shall be immediately revoked, the revocation shall be stayed, and Petitioner's license shall be placed on probation for a period of [INSERT PERIOD OF PROBATION] under the following terms and conditions:



Board of Behavioral Sciences
 1625 North Market Blvd., Suite S200, Sacramento, CA 95834
 Telephone: (916) 574-7830 ~~TDD: (916) 322-1700~~
 Website Address: <http://www.bbs.ca.gov>



QUARTERLY WRITTEN REPORT

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.

QUARTERLY REPORTING PERIOD From ____/____/____ Through ____/____/____

CASE# _____

PERSONAL INFORMATION

Name: _____ License/Registration Number: _____

~~Address: _____ Telephone Number: (____) _____~~

Address: _____
 (street, city, zip code)

~~Telephone Number: _____~~

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

Employer (1): _____

Address: _____

Telephone Number: (____) _____

QUARTERLY WRITTEN REPORT

Name: _____

EMPLOYMENT (CONTINUED)

Employer (2): _____

Address: _____

Telephone Number: (_____) _____

EMPLOYMENT STATUS

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

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

If Yes, is it solo? Yes ☐ No ☐ group? 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 an explanation.

SUSPENSION

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

From: _____ to: _____

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.

Is your supervisor or some other individual required to be present at specific therapy sessions? Yes ☐ No ☐

Supervisor's Name: _____ License No.: _____

Dates of Service: _____

SUPERVISION

In this quarter, were you required to have supervision?

Yes ☐ No ☐

Required Frequency: _____ week/month

Supervisor's Name: _____ License No.: _____

Dates of Supervision (held at supervisor's office): _____

Dates of Supervision (held at your office): _____

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

Does your Supervisor have a signed release form for all of your clients?

Yes ☐ No ☐

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

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

In this quarter, were you required to take a licensing or special examination?

Yes ☐ No ☐

If Yes, have you taken the examination?

Yes ☐ No ☐

Type: _____ Date: _____ Result: _____

REMEDIAL EDUCATION

In this quarter, were you required to submit an educational plan for approval?

Yes ☐ No ☐

If Yes, did you submit the plan for approval?

Yes ☐ No ☐

Are you attending or have you completed the assigned remedial coursework?

Yes ☐ No ☐

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 EVALUATION

In this quarter, were you required to undergo a psychological evaluation?

Yes ☐ No ☐

If Yes, Name of Evaluator: _____

Evaluation scheduled for and/or occurred: _____

*Attach Billing/Proof of Payment**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.***PSYCHOTHERAPY**

In this quarter, were you required to undergo psychotherapy?

Yes ☐ No ☐

Doctor/Therapist's Name: _____ License No.: _____

Location of Sessions: _____ Telephone No.: _____

Required Frequency: _____ week/month

List the dates of your scheduled appointments during the quarter: _____

*If you or your therapist missed/cancelled any appointments please explain on a separate sheet.***REHABILITATION PROGRAM/BIOLOGICAL FLUID 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 abstain from alcohol and/or controlled substances? Yes ☐ No ☐If Yes, and you did not, attach a separate sheet giving a detailed explanation regarding the circumstances surrounding your use of controlled substances and/or alcohol.

In this quarter, were you required to submit to random biological fluid testing?

Yes ☐ No ☐

List the dates you were tested: _____

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

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.

OBEY ALL LAWS

In this quarter, did you violate any federal, state or local law? Yes ☐ No ☐

If Yes, attach **original certified copies** of 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)

RECOVERY COSTS/RESTITUTION

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

If Yes, have you paid cost recovery as directed? 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/agency, as ordered by the terms of your probation to this Board, or of your criminal probation? Yes ☐ No ☐

If Yes, please attach a separate sheet and provide a detailed explanation, status of the investigation, all documentation relating to the imposed discipline, and/or proof of payment.

QUARTERLY WRITTEN REPORT

Name: _____

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.

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 I have fully complied with the terms and conditions of the probation program established by the Board.

Signature

Date

ATTACHMENT C

PROPOSED LANGUAGE

Title 16, Division 18, California Code of Regulations

AMEND §1845. UNPROFESSIONAL CONDUCT

As used in Section 4982 of the ~~e~~Code, unprofessional conduct includes, but is not limited to:

~~(a) Performing or holding himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.~~

~~(b) Permitting a trainee or associate under his or her supervision or control to perform or permitting the trainee or associate to hold himself or herself out as competent to perform professional services beyond the trainee's or associate's level of education, training and/or experience.~~

~~(c) Failing to comply with the child abuse reporting requirements of Penal Code section 11166.~~

~~(d) Failing to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institutions Code section 15630.~~

~~(ea)~~ Failure to provide to the board, as authorized by law, copies of records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide the records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records.

~~(fb)~~ Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

~~(gc)~~ Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357(b), (c), (d), (e) or 11360(b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(~~hd~~) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7.

(~~ie~~) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 4980.60 and 4990.20, Business and Professions Code. Reference: Sections ~~4980.03~~, 4980.60 and 4982, Business and Professions Code; Sections ~~1000.4 and 11166~~, Penal Code; and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code, ~~and Section 15630, Welfare and Institutions Code.~~

AMEND §1858. UNPROFESSIONAL CONDUCT

As used in Section 4989.54 of the eCode, unprofessional conduct includes, but is not limited to:

(a) Impersonates a licensee or allows another person to use his or her license.

~~(b) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.~~

(~~eb~~) Failure to provide to the board, as authorized by law, copies of records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide the records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records.

(~~dc~~) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to

waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(~~ed~~) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(~~fe~~) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7.

(~~gf~~) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 4989.18 and 4990.20, Business and Professions Code. Reference: Sections 4989.18 and 4989.54, Business and Professions Code, Section 1000.4, Penal Code, and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code.

AMEND §1881. UNPROFESSIONAL CONDUCT

As used in Section 4992.3 of the Code, unprofessional conduct includes, but is not limited to:

~~(a) Misrepresents the type or status of license held by such person or otherwise misrepresents or permits the misrepresentation of his or her professional qualifications or affiliations.~~

~~(b) Impersonates~~ Impersonating a licensee or ~~who allows~~ allowing another person to use his or her license.

~~(c) Aids or abets an unlicensed person to engage in conduct requiring a license.~~

~~(d) Intentionally or recklessly causes physical or emotional harm to a client.~~

~~(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.~~

~~(f) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of a Licensed Clinical Social Worker.~~

~~(g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.~~

~~(h)~~ Permits-Permitting a person under his or her supervision or control to perform or permits-permitting such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

~~(i) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.~~

~~(j) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.~~

~~(k) Advertises in a manner which is false or misleading.~~

~~(l) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. The licensee shall limit access to such test or device to persons with professional interest who are expected to safeguard their use.~~

~~(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence.~~

~~(n) Pays, accepts or solicits any consideration, compensation or remuneration for the referral of professional clients. All consideration, compensation or remuneration must be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for such collaboration except when disclosure of such fee is made in compliance with subparagraph (j) above.~~

~~(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.~~

~~(p) Fails to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630.~~

(gc) Failure to provide to the board, as authorized by law, copies of records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide the records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records.

(fd) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(se) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(tf) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7.

(ug) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4990.20, 4992.3, ~~4992.33~~ and 4996.11, Business and Professions Code; Sections 1000.4 and 11166, Penal Code, and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code, ~~and Section 15630, Welfare and Institution Code.~~

AMEND §1886.40. AMOUNT OF FINES

(a) For purposes of this section, a “citable offense” is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13, 13.5, 14, and 16 of Division Two of the Business and Professions Code, and Title 16, Division 18, California Code of Regulations, and the Confidentiality of Medical Information Act (Civil Code Section 56 et seq.).

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

(1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.

(2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.

(3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.

(4) The citation involves unlicensed practice.

(5) The citation involves an unlawful or unauthorized breach of confidentiality.

(6) The citation is for failure to submit fingerprints to the Department of Justice as required by the Board.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, 4989.18, and 4990.20, Business and Professions Code, and Section 56.36, Civil Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 702, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, 4987.7, 4987.8, 4988, 4988.1, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.34, 4989.54, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9,

~~4996.16, 4996.18, 4996.19, 4996.22, 4996.23, 4998.2, 4998.3, 4998.4, 4998.1, 4998.5, 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.42, 4999.44, 4999.45, 4999.46, 4999.54, 4999.58, 4999.60, and 4999.90, 4999.124, and 4999.128, 4999.76. Business and Professions Code; Section 56.36, Civil Code; and Section 15630, Welfare and Institutions Code; and Section 12926, Government Code.~~

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~~ 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 abuse of drugs and/or alcohol, the violation is presumed to be a substance abuse violation for purposes of Section 315 of the Code. If the licensee or registrant does not rebut the presumption that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation. If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all other relevant terms and conditions contained in the Disciplinary Guidelines, the terms and conditions that incorporate the Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in the order placing the license on probation.~~

(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.

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