

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 40. Naturopathic Medicine Committee

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

Amend Section 4256 in Article 9 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

§ 4256. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license or certificate pursuant to section 141 or division~~Division~~ 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a person holding a license or certificate under the Naturopathic Doctors Act if to a substantial degree it evidences~~evinces~~ present or potential unfitness of a person holding such a license or certificate to perform the functions authorized by the license or certificate in a manner consistent with the public health, safety or welfare. ~~Such crimes or acts shall include but not be limited to the following:~~

~~(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Naturopathic Doctors Act.~~

~~(b) A conviction of child abuse.~~

~~(c) A conviction as a sex offender.~~

~~(d) The conviction of any crime involving the sale, gift, administration, or furnishing of narcotics, dangerous drugs or dangerous devices, as defined in Section 4022 of the Code.~~

~~(e) A conviction for assault and/or battery, lewd conduct, or driving under the influence of drugs or alcohol.~~

~~(f) A conviction of a crime involving fiscal dishonesty.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Committee shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a naturopathic doctor.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(1) Any violation of Article 6, of Chapter 1 of Division 2 of the Business and Professions Code.

(2) Any violation of the provisions of Chapter 8.2 of Division 2 of the Business and Professions Code.

Note: Authority cited: Sections 481, and 3622, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 3660, and 3662, Business and Professions Code.

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Amend Section 4258 in Article 9 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

§ 4258. Criteria For Rehabilitation – Denial of Licensure.

~~(a) When considering the denial of a license under Section 480 of the Code, the Committee, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:~~

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

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

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

~~(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.~~

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

~~(b) When considering the suspension or revocation of a license on the grounds that a naturopathic doctor has been convicted of a crime, the Committee, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:~~

~~(1) Nature and severity of the act(s) or offense(s).~~

~~(2) Total criminal record.~~

~~(3) The time that has elapsed since commission of the act(s) or offense(s).~~

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

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

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

(a) When considering the denial of a license or certification under Section 480 of the Business and Professions Code on the ground that the applicant was convicted of a crime, the Committee shall consider whether the applicant made a showing of rehabilitation and is presently fit for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Committee shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Committee determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the Committee shall apply the following criteria in evaluating the applicant's rehabilitation. The Committee shall find that the applicant made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Committee finds that the applicant is rehabilitated:

(1) Nature and gravity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in paragraph (1) or (2).

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

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

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

Note: Authority cited: Sections 482 and 3622, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 493, 3660, and 3662, Business and Professions Code.

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Adopt Section 4259 in Article 9 of Division 40 of Title 16 of the California Code of Regulations to read as follows:

§ 4259. Criteria For Rehabilitation – Suspension or Revocation.

(a) When considering the suspension or revocation of a license on the ground that the holder of the license has been convicted of a crime, the Committee shall consider whether the licensee made a showing of rehabilitation and is fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Committee shall consider the following criteria:

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If subdivision (a) is inapplicable, or the Committee determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the Committee shall apply the following criteria in evaluating the licensee's rehabilitation. The Committee shall find that the licensee made a showing of rehabilitation if, after considering the following criteria, the Committee finds that the licensee is rehabilitated:

- (1) The nature and gravity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation

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

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

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

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

(7) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.

(8) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.

(9) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a license or certification under the provisions of Section 11522 of the Government Code, the Committee shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 4258 of this article.

Note: Authority cited: Section 3622, Business and Professions Code. Reference: Sections 141, 480, 481, 482, 488, 490, 493, 3660, and 3662, Business and Professions Code.