

STATE OF CALIFORNIA
Department of Consumer Affairs
Title 16. Professional and Vocational Regulations
Division 40. Naturopathic Medicine Committee

**NOTICE OF AVAILABILITY OF MODIFIED TEXT OF PROPOSED REGULATIONS
CONCERNING SUBSTANTIAL RELATIONSHIP AND REHABILITATION CRITERIA**

NOTICE IS HEREBY GIVEN that the Naturopathic Medicine Committee (Committee) has proposed modifications be made to proposed regulation 16 CCR sections 4256, 4258, and 4259, related to substantial relationship, and rehabilitation criteria for denial of licensure and suspension or revocation of a license. These regulations were originally noticed on March 13, 2020.

Materials regarding this proposal can be found at https://www.naturopathic.ca.gov/laws/proposed_regulations.shtml .
or by requesting them from the Contact person identified below.

Any person who wishes to comment on the proposed modifications may do so by submitting written comments between November 10 and 5 pm on November 25, 2020 to the following:

Contact Name:	Rebecca Mitchell, Executive Officer
Address:	Naturopathic Medicine Committee 1300 National Drive, Suite 150 Sacramento, CA 95834
Fax No.:	(916) 928-4787
E-mail Address:	Rebecca.Mitchell@dca.ca.gov

Please note, comments should be restricted to the most recent modifications made to the proposed regulations. The Committee is not required to respond to comments on other aspects of the proposed regulations received in response to this notice.

Any comments previously submitted remain in the rulemaking file and will be responded to by the Committee's staff as part of the Final Statement of Reasons. All written comments received by **November 25, 2020**, that pertain to these modifications will be reviewed and responded to by the Committee's staff as part of the compilation of the rulemaking file.

This notice is given pursuant to the requirements of Government Code section 11346.8, subdivision (c), and California Code of Regulations, title 1, section 44.

**STATEMENT OF SERVICE BY MAIL
CERTIFICATION RE: AVAILABILITY OF DOCUMENTS
(1 CCR 44)**

I certify that the Naturopathic Medicine Committee has complied with the requirements of Section 11346.8, subdivision (c), of the Government Code and that the attached notice was mailed and, pursuant to Government Code Section 11340.85, sent by electronic communication, on November 10, 2020.

**The public availability period began on November 10, 2020 and ended on
November 25, 2020.**

DATED: _____

Rebecca Mitchell
Executive Officer
Naturopathic Medicine Committee

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

Modified Text

Proposed modifications to the regulatory language that are shown as double underline for new text and ~~double strikethrough~~ for deleted text. The original 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~~ evidences 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~~7~~ and 3622, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, ~~3660~~, and 3662, Business and Professions Code.

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

Proposed modifications to the regulatory language that are shown as double underline for new text and ~~double strikethrough~~ for deleted text. The original proposed amendments to the regulatory language are shown in single underline for new text and ~~strikethrough~~ for deleted text.

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~~ has been 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, If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, or the Committee determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on unprofessional conduct as defined in Section 3662 of the Code, 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), professional misconduct, unprofessional conduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) or crime(s) committed subsequent to the act(s), professional misconduct, unprofessional conduct, 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), professional misconduct, unprofessional conduct, 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 481, 482 and 3622, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 493, ~~3660~~, and 3662, Business and Professions Code.

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

Proposed modifications to the regulatory language that are shown as double underline for new text and ~~double strikethrough~~ for deleted text. The original proposed amendments to the regulatory language are shown in single underline for new text and ~~strikethrough~~ for deleted text.

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 or certificate on the ground that the holder of the license or certificate has been convicted of a crime, the Committee shall consider whether the licensee or certificate holder made a showing of rehabilitation and is fit for a license, if the licensee or certificate holder 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 or certificate holder'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,~~ If the licensee or certificate holder has not completed the criminal sentence at issue without a violation of parole or probation, ~~or the Committee determines that the licensee or certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the suspension or revocation is based on unprofessional conduct as defined in section 3662 of the Code,~~ the Committee shall apply the following criteria in evaluating the licensee's or certificate holder's rehabilitation: ~~The Committee shall find that the licensee or certificate holder made a showing of rehabilitation if, after considering the~~

following criteria, the Committee finds that the licensee or certificate holder is rehabilitated:

- (1) The nature and gravity of the act(s), disciplinary action(s), unprofessional conduct, or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s), disciplinary action(s), unprofessional conduct, 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), disciplinary action(s), unprofessional conduct, or crime(s) referred to in subdivision (1) or (2).
- (4) Whether the licensee or certificate holder has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against the licensee or certificate holder 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 or certification may have been unintentional, inadvertent, or immaterial.
- (8) Efforts made by the ~~applicant~~ licensee or certificate holder either to correct a false statement on an application for licensure or certification ~~once made on an application~~ or to conceal the truth concerning facts required to be disclosed on an application for licensure or certification.
- (9) Evidence, if any, of rehabilitation submitted by the licensee or certificate holder.

(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: Sections 481, 482, and 3622, Business and Professions Code. Reference: Sections 141, ~~480~~, 481, 482, ~~488~~, 490, 493, ~~3660~~, and 3662, Business and Professions Code.