



Board of Behavioral Sciences

Memo

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To: Committee Members

Date: July 20, 2022

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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 2020¹) and section 1888 of Title 16 of the California Code of Regulations (CCR). The Board had approved many of these changes 2015. However, due to legislation² that affected some of the proposed changes, this package was held. During the time it was being held, additional changes have been identified and are included in the proposal.

The portion of the document entitled "Uniform Standards Related to Substance Abuse" is based on uniform standards created in response to legislation³ which required the Department of Consumer Affairs (DCA) to establish the Substance Abuse Coordination Committee. The purpose was to address the increasing problem of substance abuse in healthcare professions, and address inconsistent standards among licensing boards.

The "Disciplinary Guidelines" portion of the document provides recommended guidelines intended for use by those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys, as well as Board members who review proposed decisions and stipulations and make final decisions.

Because there are many changes to this long and complex document, we will primarily discuss major proposed changes at this (July 2022) meeting. We will discuss the rest of the changes at the October 2022 Policy and Advocacy Committee meeting. While this memo primarily discusses major changes, the attached document (Attachment B) contains the entirety of the proposed changes. Committee members and stakeholders are encouraged to review all changes, including those not discussed at the July meeting in preparation for the October meeting.

¹ Incorporated by reference into Title 16, CCR section 1888

² AB 2138, Chapter 995, Statutes of 2018

³ SB 1441, Chapter 549, Statutes of 2008

Proposed Changes

Note: Page numbers are referring to the page number in the bottom left-hand corner of the Uniform Standards/Disciplinary Guidelines document.

1. Uniform Standards/Disciplinary Guidelines: Recommended Language for Registrant Applicants and Registrants (Page 1)

Business and Professions Code (BPC) section 23.7 states that the use of the term “license”, when used in the BPC, also includes the term “registration” within its meaning. In other words, when the law uses the term “license”, that includes both license holders and registrants unless otherwise specified. To streamline the Uniform Standards/Disciplinary Guidelines, most references to “registrant” and “registration” throughout the document have been stricken where the term “license” or “licensee” will suffice.

2. 16 CCR Section 1888 and Uniform Standards (Page 4): Violations Involving Abuse of Drugs and/or Alcohol

Section 1888 currently states that every violation that involves the use of drugs and/or alcohol must comply with the Uniform Standards Related to Substance Abuse (Uniform Standards). At the time this was written, it was believed that this is what the statutes regarding the Uniform Standards required.

However, the Attorney General’s Office since issued a formal opinion (AG Opinion No. 13-02). This opinion found that boards must use the Uniform Standards in all cases which they apply, and that boards may establish a regulation defining a “substance abusing licensee” for purpose of determining who is subject to the Uniform Standards, as long as the regulation is consistent with Business and Professions Code (BPC) section 315. DCA Legal has since concurred that a board may use discretion in imposing the Uniform Standards based on whether a licensee is found to be a “substance abusing licensee.”

Based on these new determinations, DCA Legal recommended section 1888 be amended (see Attachment A) to clarify that if a violation involves the abuse of 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.

A paragraph clarifying the process of determining who is a “substance abusing licensee” is also proposed to be added to section I of the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” (Uniform Standards/Disciplinary Guidelines, Attachment B, P. 4)

3. Uniform Standards Related to Substance Abuse

The proposed amendments would do the following:

- Prohibit a clinical evaluator (page 5), a supervisor (page 6) or a group meeting facilitator (page 8) from having a therapeutic relationship with the licensee.
- Amend the Tolling section (#4, page 13) of the Testing Frequency Schedule Exceptions as follows:
 - Require the licensee to notify the Board upon resumption of providing therapy to clients located in California (as opposed to current language that requires notifying of the licensee's "return to California"). (page X).
 - Specify that tolling cannot be requested after a positive test result for alcohol and/or controlled substances is received, or if the person's license has been suspended. In both of these cases the licensee is not eligible for tolling.
 - Note: Tolling stops the "clock" on the length of probation. It occurs when a licensee on probation is not practicing for a period of 30 days or more. The purpose is to ensure that a licensee serves all of the terms of their probation while practicing. For example, if one of the terms of probation is supervised practice, that cannot be met during periods of nonpractice. However, the licensee still must comply with certain terms and conditions of probation, even during tolling.

II. PENALTY GUIDELINES

1. Penalty Guidelines (Section II pages 16-33):

Minimum Penalty Column

The proposed amendments would:

- Clarify that the terms listed under the "Minimum Penalty" column are individual terms to be selected as warranted based on the circumstances of the case. This is needed for clarity, as sometimes Administrative Law Judges will list all of the terms included under Minimum Penalty even if certain penalties do not seem to be warranted in a case.
- Strike all text throughout the Minimum Penalty column that states, "if warranted." This will help to clarify that all possible penalties should be considered in each case, and that any of the penalties listed should be applied "if warranted."

Take and Pass Licensure Examinations/ Law and Ethics Course

The penalty "take and pass licensure examinations" is proposed to be stricken from all violation categories for several reasons:

- Any licensee would have already passed the exams, and it is not clear that there is any benefit to having them retake the exams.

- Registrants are already required to attempt the Law and Ethics exam at least once per year, and are not eligible to take the clinical exam until they have met all other licensure requirements.
- The vast majority of the exam questions would not pertain to most violations.
- The process of registering someone who is already licensed to take the exam poses some administrative hurdles that can be overcome but is time-consuming.
- The option to require a Law and Ethics course as a penalty is proposed to be added to all violation categories, and may be a reasonable substitute for the exam requirement.

2. Penalty Guidelines (Page 17): Sexual Misconduct (General)

The proposed amendments would:

- Provide for a minimum suspension of 60 days rather than 120 days. In some cases, a shorter suspension is warranted.
- Remove minimum penalties that pertain to alcohol or controlled substances. If the licensee has a substance use violation, then the penalties in the separate section for that violation would apply.

3. Penalty Guidelines (Page 18): Sexually Related Crime

The proposed amendment would provide for a minimum suspension of 60 days rather than 120 days. In some cases, a shorter suspension is warranted.

4. Penalty Guidelines (Page 20): Chemical Dependency

The proposed amendments would:

- Provide for a minimum suspension of 60 days rather than 120 days. In some cases, a shorter suspension is warranted. In addition, sometimes the Board receives the results of the licensee's psychiatric evaluation fairly quickly.
- Strike the education penalty option, as education is always part of a rehabilitation program, and therefore not necessary to specify here.
- Add recovery support program and relapse prevention plan to the penalties, as these are new terms proposed to be added to the penalty guidelines.

5. Penalty Guidelines (Page 21): Intentionally/Recklessly Causing Harm

The proposed amendment would provide for a minimum suspension of 60 days rather than 90 days. In some cases, a shorter suspension is warranted.

6. Penalty Guidelines (Page 22): Gross Negligence/Incompetence

The proposed amendments would add recovery support program and relapse prevention plan to penalties, as these are new terms proposed to be added to the penalty guidelines.

7. Penalty Guidelines (Page 23): General Unprofessional Conduct

The proposed amendments would strike the penalties requiring abstention from alcohol and controlled substances, as well as testing. If the licensee has a substance use violation, then the penalties in the separate section for that violation would apply. However, the rehabilitation (and monitoring) program is proposed to remain, which is needed as an option when the Board becomes aware of a substance use problem but there is not a conviction.

8. Penalty Guidelines (Page 24): Conviction of a Substantially Related Crime

The proposed amendments would:

- Strike the note that says, “Costs and conditions of probation depend on the nature of the criminal offense.” This is true in all categories and is not necessary to be stated here.
- Add recovery support program and relapse prevention plan to penalties, as these are new terms proposed to be added to the penalty guidelines.

9. Penalty Guidelines (Page 28): Improper Supervision

For Discussion: Suspension of license for improper supervision is currently a minimum penalty. But is suspension warranted in cases pertaining to improper supervision? If a licensee is on probation they will not be allowed to supervise.

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

The proposed amendments would:

- Strike the penalty that requires a registration to be placed on probation until a license is issued. This is not necessary as probation automatically transfers over to the license.
- Strike the penalty that requires the license to be issued on probation for one year. The remaining probation time frame may be more or less than one year.
- Strike the penalty that requires rejection of illegally acquired hours. This action would not be part of the order. It is done via the licensing unit.

11. Add to Penalty Guidelines (Page 31): Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18

SB 1172 (Chapter 835, Statutes of 2012) made it unprofessional conduct to engage in any sexual orientation change efforts with a patient under the age of 18. The proposed amendment would add minimum and maximum penalties for this. Staff selected the same penalties used for the violation of “Intentionally / Recklessly Causing Physical or Emotional Harm to Client.” The Committee may wish to discuss if the penalties chosen are appropriate.

12. Add to Penalty Guidelines (Pages 32-33): Consumer Protection Enforcement Initiative Unprofessional Conduct Provisions Pertaining to Records, Reporting and Investigations

The Board added four unprofessional conduct provisions via regulation for each license type based on direction from the Department of Consumer Affairs' Consumer Protection Enforcement Initiative (CPEI). These provisions, which became effective July 1, 2013, pertain to Board investigations, and include such violations as failing to provide records or failure to cooperate in a Board investigation.

This amendments would add minimum and maximum penalties for each of these new unprofessional conduct provisions. Staff used a selection of the penalties used for violations of "General Unprofessional Conduct" and "Violations of the Chapter or Regulations by Licensees or Registrants" as a guide. The Committee may wish to discuss if the penalties chosen are appropriate.

III. MODEL DISCIPLINARY ORDERS

1. Optional Term and Condition of Probation (Page 36): Clinical Diagnostic Evaluation

The amendments would:

- Increase the time frame during which the Respondent must obtain the evaluation from 20 days to 30 days.
- Specify that the evaluation must be performed by a licensed psychologist or psychiatrist who holds a valid unrestricted license approved by the Board.
- Specify that the evaluator shall not have a financial, personal, business, professional or therapeutic relationship with the Respondent.
- Specify that the evaluator must provide an objective, unbiased and independent evaluation.
- Clarify that failure to pay for the report timely is a violation of probation.
- Require Respondent to sign a release authorizing the evaluator to communicate with the Board.
- Add language specifying what happens if Respondent is determined to be unfit to practice safely, including issuance of a suspension and revocation of probation.
- Strike "either full-time or part-time" from language regarding return to practice after suspension of the Respondent's license. The Board must determine that the Respondent is able to safely practice period – whether full-time or part-time is irrelevant.

2. Optional Term and Condition of Probation (Page 37): Psychological/ Psychiatric Evaluation

The amendments would:

- Specify that the evaluator shall not have a financial, personal, business, professional or therapeutic relationship with the Respondent.
- Specify that the evaluator must provide an objective, unbiased and independent evaluation.
- Change “unable to practice independently and safely” to “unfit to practice safely.” Registrants do not practice “independently”. A licensee is permitted to practice independently, so that factor would already be considered by the evaluator.
- Clarify that a finding that an individual is unfit to practice safely is a violation of probation.
- Clarify that any period of suspension does not reduce the time on probation.

3. Optional Term and Condition of Probation (Page 38): Psychotherapy

The amendments would:

- Increase the amount of time the Respondent has to submit for prior approval the name and qualifications of a mental health professional from 15 days to 30 days.
- Strike the paragraph that requires the Respondent to obtain the Board’s written permission to receive therapy via videoconferencing.
- Reduces the number of days the mental health professional has to notify the Board that the Respondent cannot practice safely, from three (3) working days to one (1) working day.
- Clarify that the Board shall issue a suspension if the mental health professional finds that Respondent cannot practice safely.
- Clarify that a finding that an individual is unfit to practice safely is a violation of probation.
- Clarify that any period of suspension does not reduce the time on probation.
- Strike the term that requires Respondent to document compliance with this condition in the manner required by the Board. This already done as part of the quarterly probationer report.

4. Optional Term and Condition of Probation (Page 39): Supervised Practice

The amendments would:

- Require a respondent to cease practice until a supervisor is found if a supervisor has not been approved within 45 days of the effective date of the Decision.
- Clarify that a supervisor must possess a valid unrestricted license in California, and have been licensed for at least two years.

- Strike the requirement that the supervisor be in the respondent's same field of practice. This had previously been interpreted to mean that the supervisor must have the same type of license as the Respondent. However, due to workforce shortages, it is not always possible to find someone with the same license. In addition, a mental health professional with a different type of license does not preclude their ability to evaluate the Respondent's performance.
- Prohibit the supervisor from also serving as the Respondent's clinical experience supervisor.
- Decrease the number of days that the Respondent has to notify the Board if the supervisor is no longer available from 15 days to three (3) days, and clarify that if the Respondent does not secure a new Board-approved supervisor, this shall be a violation of probation.

5. New Optional Term and Condition of Probation (Page 41): Attend Recovery Support Program

This proposed amendment adds a new optional term of probation requiring, if the Board so chooses, the probationer to attend a recovery support program approved by the Board, such as Alcoholics Anonymous. The Board sometimes requires this as a term of probation, even though it is currently not included in the list of optional terms and conditions. The proposed language for the new term was developed by the Attorney General's office with the assistance of Board staff.

6. New Optional Term and Condition of Probation (Page 41): Relapse Prevention Plan

For Discussion: This amendment had originally been proposed as a new optional term of probation requiring, if the Board so chooses, the probationer to attend a relapse prevention program. Staff has found that programs titled as such do not exist (that we could find). Instead, the amendment would require completion of a relapse prevention plan.

However, upon further consideration, we ask that the Committee discuss whether this term is necessary. This term would be for individuals who don't meet the criteria for a rehabilitation program. Such individuals would instead attend a recovery support program, and an integral component of these programs is relapse prevention planning. Another possible concern is whether such a plan, which may be very personal, is appropriate to be submitted to the Board? Or is this term beneficial to the extent that it should be included?

7. Optional Term and Condition of Probation (Page 41): Rehabilitation (and Monitoring) Program

For Discussion: While some revisions to this section have been proposed, staff believes it is possible that this section may no longer be needed. It appears to make more sense for a diversion program, which the Board does not have. First, not everyone qualifies for a rehabilitation program depending on where they are at in recovery. Second, the programs often duplicate what the Board is requiring (testing,

etc). Lastly, if an individual is actively using and doesn't want to lose their license, it is a given that they would need to enter rehabilitation in order to be a successful candidate for probation. This doesn't need to be part of the disciplinary order.

8. Optional Term and Condition of Probation (Page 42): Abstain from CONTROLLE SUBSTANCES/Submit to Testing AND

Optional Term and Condition of Probation (Page 42): Abstain from Use of ALCOHOL/Submit to Testing

The current terms for each of these sections specify that testing is required for both drugs and alcohol. However, the terms do not state that the Respondent must abstain from both, so this is proposed to be added to each section. In addition, the "Abstain from Use of Alcohol" terms specify that a positive test for alcohol OR a controlled substance requires suspension of license, but the "Abstain from Controlled Substances" terms only require suspension for a positive test for controlled substances, therefore a positive test for alcohol is proposed to be added.

9. Standard Term and Condition of Probation (Page 46): Failure to Practice (Tolling)

This term requires automatic license cancellation if the probationer does not practice for a total of two years. In a 2006 case involving the Medical Board, a court ruled that this term violated the Constitutional right to due process if there was not a hearing. DCA Legal has proposed an amendment stating that it shall be a violation of probation, and that the Respondent's license shall be subject to cancellation.

In addition, this proposal would prohibit the Respondent from having probation tolled if their license has been suspended, consistent with the same proposed addition to the Uniform Standards.

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 bring the changes back to the Committee.

Attachments

Attachment A: Proposed Changes to Title 16, CCR section 1888

Attachment B: Proposed Changes to Uniform Standards/Disciplinary Guidelines

Attachment A

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 successfully rebut [the presumption](#) that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation.

(c) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

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.

Attachment B

State of California

Department of Consumer Affairs

Board of Behavioral Sciences

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure, likely a personification of Justice or a similar allegorical figure, holding a scale and a sword. The figure is set against a background of a landscape with mountains and a sun. The words "CALIFORNIA BOARD OF" are arched across the top, and "EUREKA" is written below it. The bottom part of the seal is partially obscured by the main title text.

**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 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; 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 references to the word “license” or “licensee” throughout this document shall also be interpreted as meaning “registration” or “registrant” 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 and/or alcohol, the violation is presumed to be a substance abuse violation. 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. Conversely, if the licensee does not rebut the presumption, then the "Uniform Standards Related to Substance Abuse" must be used, without deviation. The Board may order a licensee to undergo a psychological evaluation or clinical diagnostic evaluation by an evaluator approved by the Board to determine whether the licensee has a substance use disorder.

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

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

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 controlled substances or alcohol;
5. Committing any drugs controlled substances 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 and controlled substances 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 alcohol and controlled substances 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 cooperate with 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 shall request that the Attorney General's office prepare an accusation or petition to revoke probation.

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 Alcohol and Controlled Substance Testing Standards

The ~~drug alcohol and controlled substance~~ 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 and controlled substance testing, if appropriate.

1. ~~Drug t~~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, alternative **drug** testing location(s) 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 Alcohol and Controlled Substances Testing Frequency Schedule

The Board may order a licensee ~~or registrant~~ to **drug** test for alcohol and controlled substances 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 Alcohol and Controlled Substances Testing Frequency Schedule Exceptions

The Board may make exceptions to the prescribed [drug alcohol and controlled substances](#) 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 years from each other, where alcohol or [drugs controlled substances](#) 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 return to~~ resumption of providing therapy to clients located 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.

A request for tolling cannot be requested 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.

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~~ tests for alcohol and controlled substances 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. Penalty Guidelines

The following is an attempt to provide 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. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations.

Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. Except as provided in the Uniform Standards Related to Substance [aA](#)use, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

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

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty <u>Considerations</u></p> <p align="center"><u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u></p>	<p align="center">Maximum Penalty</p>
<p>LMFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729</p>	<p>Engaging in Sexual Contact with Client / Former Client</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery. <p><u>The law requires revocation/denial of license.</u></p>	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery. <p>The law requires revocation/denial of license or <u>registration</u>.</p>
<p>LMFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)</p>	<p>Engaging i<u>n</u> Act w<u>it</u>h a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act e<u>o</u>ccurred p<u>r</u>ior to or a<u>a</u>fter r<u>e</u>gistration or l<u>i</u>censure. O<u>R</u></p> <p>Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery. <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery. <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>

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

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

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</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	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation • 5 years probation; standard terms and conditions • Supervised practice • Cost recovery • Reimbursement of probation program costs. <p><u>In addition:</u></p> <ul style="list-style-type: none"> • MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy. • PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice • CHEMICAL DEPENDENCY Random drug and alcohol testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; therapy; rehabilitation program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice. 	<ul style="list-style-type: none"> • Revocation / Denial of license or registration • Cost recovery.

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty <u>Considerations</u></p> <p align="center"><u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u></p>	<p align="center">Maximum Penalty</p>
<p>LMFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: B&P § 4989.54(c), 4989.56 LPCC: B&P § 4999.90(c) GP: B&P § 480</p>	<p>Chemical Dependency for Use of Drugs <u>Controlled Substances or Alcohol</u> With Client While Performing Services</p>	<ul style="list-style-type: none"> • Revocation stayed • 60 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation • Random 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> • <u>Create and follow relapse prevention plan</u> 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery.

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</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	<ul style="list-style-type: none"> • Revocation stayed • 60 90-120 days <u>actual</u> 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 • <u>And if warranted;</u> • p<u>P</u>psychological/psychiatric evaluation; • p<u>P</u>sychotherapy; • r<u>R</u>estricted practice. 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> application • Cost recovery

<p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p>Violation Category</p>	<p>Minimum Penalty <u>Considerations</u></p> <p><u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u></p>	<p>Maximum Penalty</p>
<p><u>LMFT</u>: B&P § 4982(d) <u>LCSW</u>: B&P § 4992.3(d) <u>and (e)</u> <u>CCR § 1881(m)</u> <u>LEP</u>: B&P § 4989.54(k) <u>LPCC</u>: B&P § 4999.90(d) <u>GP</u>: B&P § 480</p>	<p>Gross Negligence / Incompetence</p>	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days <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; <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • p<u>P</u>psychological/psychiatric evaluation; • p<u>P</u>sychotherapy; • r<u>R</u>ehabilitation <u>and monitoring</u> program; • <u>Attend recovery support program</u> • <u>Create and follow relapse prevention plan</u> • 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- 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery.

<p>Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p>Violation Category</p>	<p>Minimum Penalty Considerations</p> <p><u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u></p>	<p>Maximum Penalty</p>
<p><u>LMFT</u>: 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</p>	<p>General Unprofessional Conduct</p>	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days actual suspension • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Supervised practice • Education <u>pertaining to the violation</u> • Cost recovery; • RReimbursement of probation program costs <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • pPsychological/psychiatric evaluation; • pPsychotherapy; • RRehabilitation <u>and monitoring</u> program; • abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; • RRestricted practice; • LLaw and ethics course. 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery.

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

<p align="center">Statutes and Regulations</p> <p>Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)</p>	<p align="center">Violation Category</p>	<p align="center">Minimum Penalty <u>Considerations</u></p> <p align="center"><u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u></p>	<p align="center">Maximum Penalty</p>
<p>LMFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P § 480, 650, 810</p>	<p>Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License</p>	<ul style="list-style-type: none"> • Revocation stayed • 30-60 days <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 • And if warranted. • pPsychological/psychiatric evaluation; • sSupervised practice; • pPsychotherapy; take and pass licensure exams; • rRestricted practice. 	<ul style="list-style-type: none"> • Revocation / Denial of license <u>or registration</u> • Cost recovery.
<p>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</p>	<p>Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence</p>	<ul style="list-style-type: none"> • 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 • And if warranted. • pPsychological/psychiatric evaluation; • sSupervised practice; • pPsychotherapy; take and pass licensure exams; • rRestricted practice. 	<ul style="list-style-type: none"> • 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>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</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	<ul style="list-style-type: none"> Determine the appropriate penalty by comparing the violation under the other state with California law. And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs. 	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery.
LMFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P § 4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> Revocation / Denial of license or registration application; Cost recovery. 	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery.
LMFT: B&P § 4980, 4982(f) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(f)(g), 4996 CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> Revocation stayed 60 days actual suspension 3-5 years probation; <u>standard terms and conditions</u> Standard terms and conditions Education <u>pertaining to the violation</u> <u>Law and ethics course</u> Cost recovery Reimbursement of probation program costs And if warranted: take and pass licensure examinations. 	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Revocation stayed 5 years probation; <u>standard terms and conditions</u> Standard terms and conditions Education <u>pertaining to the violation</u> <u>Law and ethics course</u> Cost recovery Reimbursement of probation program costs 	<ul style="list-style-type: none"> Revocation / Denial of license or registration Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery
LMFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(e) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> • Revocation stayed • 30-90 days <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 <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • s<u>Supervised practice</u> 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u>	Maximum Penalty
LMFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> • Revocation stayed • 60-90 days <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> • Take and pass licensure exams • Cost recovery • Reimbursement of probation program costs 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery
LMFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> • Revocation stayed • 1-3 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program costs. 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery
LMFT: B&P § 4982(r), 4982(t), 4982(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	<ul style="list-style-type: none"> • Revocation stayed • 30-90 days <u>actual</u> 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 <p><u>And if warranted:</u></p> <ul style="list-style-type: none"> • s<u>Supervised practice.</u> 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</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 / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> • Revocation stayed • Registration on probation until exams are passed and license issued • License issued on probation for one year • Rejection of all illegally acquired hours • <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- 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery
LMFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> • Revocation stayed • 3-5 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • Cost recovery • Reimbursement of probation program costs • Law and Ethics course 	<ul style="list-style-type: none"> • Revocation / Denial of license or <u>registration</u> • Cost recovery
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	<ul style="list-style-type: none"> • Revocation stayed • 1 year probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u> 	<ul style="list-style-type: none"> • Revocation stayed • 30 days actual suspension • 2 years probation; <u>standard terms and conditions</u> • Standard terms and conditions • Education <u>pertaining to the violation</u> • <u>Law and ethics course</u> • Cost recovery • Reimbursement of probation program <u>costs</u>

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>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u>	Maximum Penalty
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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x) LPCC: B&P § 4999.90(ad)	Willful Violation O of Chapter 1 (Commencing With Section 123100) O of Part 1 O of Division 106 O of The Health A and Safety Code (Client Access to Records)	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u>	Maximum Penalty
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)	<ul style="list-style-type: none"> • 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- 	<ul style="list-style-type: none"> • 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 §§ 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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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 <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u>	Maximum Penalty
LMFT: CCR § 1845(e) LCSW: CCR § 1881(g) LEP: CCR § 1858(c) LPCC: CCR § 1823 (a)	Failure to Provide Records to the Board Within 15 Days of Receipt of Request	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Revocation / Denial of license • Cost recovery
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: <ul style="list-style-type: none"> • A Felony or Misdemeanor Conviction, or; • Any Disciplinary Action Taken by Another Licensing Entity or Government Authority 	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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 <u>Considerations</u> <u>Note: Individual terms listed are to be selected as warranted based on circumstances of the case</u>	Maximum Penalty
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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Revocation / Denial of license • Cost recovery

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III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. 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. The second category consists of the **Standard Terms and Conditions of Probation** 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 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](#)).

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 sSuspension](#)
2. [Clinical Diagnostic Evaluation](#)
- ~~2.3.~~ Psychological / Psychiatric [eE](#)valuation
- ~~3.4.~~ Psychotherapy
4. ~~Clinical Diagnostic Evaluation~~
5. Supervised Practice
6. Education [Pertaining to the Violation](#)
7. ~~Take and Pass licensure examinations~~
7. [Attend Recovery Support Program](#)
8. [Relapse Prevention Plan](#)
- ~~8.9.~~ Rehabilitation [and Monitoring](#) Program
- 9-10. Abstain from Controlled Substances/Submit to Random ~~Drug and Alcohol~~ [and Controlled Substances](#) Testing
- 10-11. Abstain from Use of Alcohol /Submit to Random ~~Drug and Alcohol~~ [and Controlled Substances](#) 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 thirty (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 a psychologist or psychiatrist who holds a valid, unrestricted license and is approved by the Board. Respondent shall submit to the Board or its designee for prior approval the name and qualifications of one or more proposed psychologists/psychiatrists. The evaluator shall not have a financial, personal, business, professional, or therapeutic relationship with the Respondent. The evaluator shall provide an objective, unbiased, and independent evaluation.

The cost of such evaluation shall be borne by Respondent. Failure to pay for the report timely 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 clinical diagnostic 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 clinical diagnostic evaluation. During such time, Respondent shall submit to random alcohol and controlled substance 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 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.

Respondent's license shall remain suspended until the Board determines that Respondent is

able to safely practice and has had at least one month of negative alcohol and controlled substance 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.

If Respondent is determined to be unfit to practice safely, the Board shall issue a suspension, and upon notification by the Board, Respondent shall immediately cease practice as this shall constitute a violation of probation. The Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. 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 Respondent of its final decision in this matter. This period of suspension shall not apply to the reduction of the probationary time period.

2.3. Psychological / Psychiatric Evaluation

Within 90 days of the effective date of ~~this the 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 a~~ licensed psychologists or psychiatrists ~~as are appointed~~ approved by the Board. The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation. The evaluator shall not have a financial, personal, business, professional, or therapeutic relationship with the licensee. 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 ~~in a~~ timely ~~fashion~~ 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 ~~r~~Respondent's judgment and ability to function ~~independently and safely as a counselor-licensee 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 comply with the recommendations of the evaluator.

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

If ~~r~~Respondent is determined to be ~~unable~~ unfit to practice ~~independently and~~ safely, upon notification, the Board shall issue a suspension and ~~r~~Respondent shall immediately cease practice as this shall constitute a violation of probation 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 final decision in the matter ~~determination that respondent may resume practice.~~ This period of suspension shall not apply to the reduction of the probationary time period.

~~(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 ~~15-30~~ days of the effective date of ~~this the~~ dDecision, ~~r~~Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of ~~one or more a~~ therapist's mental health professional of ~~r~~Respondent's choice. ~~Such therapist~~ The mental health professional shall possess a valid, unrestricted California license to practice psychotherapy and shall have had no prior business, professional, therapeutic, or personal relationship with ~~r~~Respondent, and shall not be the ~~r~~Respondent's supervisor. The Board requires the appointment of a professional who has knowledge, training, and experience in the circumstances surrounding the violation. Counseling Psychotherapy shall be 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 ~~r~~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 dDecision no later than the first counseling psychotherapy session. Upon approval by the Board, ~~r~~Respondent shall undergo and continue treatment until the Board or its designee determines that a reduction in or no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist mental health professional submits quarterly written reports to the Board concerning ~~r~~Respondent's fitness to practice, 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 therapist to ~~divulge information to~~ communicate with the Board.

If the treating psychotherapist mental health professional finds that ~~r~~Respondent cannot practice safely or independently, the psychotherapist mental health professional shall notify the Board within ~~three (3)~~ one (1) working days. If Respondent is determined to be unfit to practice safely, uUpon notification by the Board or its designee, the Board shall issue a suspension and Rrespondent shall immediately cease practice as this shall constitute a violation of probation and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice of its final decision in this matter. This period of suspension shall not apply to the reduction of the probationary time period. 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 ~~Decision~~, ~~Respondent~~ shall submit 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 the decision, Respondent shall cease practice until a supervisor has been approved by the Board or its designee. The supervisor shall ~~be a current~~ possess a valid, unrestricted California licensed ~~practitioner in respondent's field of practice, who~~ as a mental health professional, be approved by the Board or its designee, and shall have been licensed for at least two years in California or in any other state. The supervisor shall submit quarterly written reports to the Board or its designee ~~on a quarterly basis~~ verifying that supervision has taken place as required and including an evaluation of ~~Respondent's~~ performance. The supervisor shall ~~be independent, with~~ have no prior business, professional, therapeutic, or personal relationship with ~~Respondent, and shall not be Respondent's clinical experience supervisor.~~~~

~~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~~ shall be a violation of probation. Respondent shall give the supervisor access to ~~Respondent's~~ fiscal and client records. 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 ~~15-3~~ days and shall not practice until a new supervisor has been approved by the Board. If Respondent fails to submit and/or secure a new supervisor approved by the Board, this shall constitute a violation of probation. All costs of the supervision shall be borne by ~~Respondent~~. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. ~~The supervisor shall not be the respondent's therapist.~~

[Optional - Respondent shall not practice until ~~he/she has notified by the Board that the Respondent's supervisor has been approved~~ 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 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 provider approved by the Board. All courses shall be approved by the Board. ~~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 ~~d~~Decision, ~~Respondent~~ shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by ~~the Respondent~~. Units obtained for an approved course shall not be used 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 Examinations

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

7. Attend Recovery Support Program

Respondent shall attend a recovery support program approved by the Board no less than _____ times per week. Respondent shall provide proof of attendance at said program with each quarterly report that Respondent submits during the period of probation. Failure to attend, or to show proof of such attendance, shall constitute a violation of probation.

8. Relapse Prevention Plan

Within fifteen (15) days from the effective date of the Decision, Respondent shall submit to the Board or its designee a relapse prevention plan. The plan shall be relevant to the violation and to Respondent's current status in recovery or rehabilitation. The plan shall provide a specific course of action for responding to triggers, cravings, and early warning signs as identified by Respondent.

8.9. Rehabilitation and Monitoring Program

Within fifteen (15) days from the effective date of the ~~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~~ attend 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 components. All costs of participating in the program(s) shall be borne by the ~~r~~Respondent.

9-10. Abstain from Controlled Substances / Submit to ~~Drug and Alcohol~~ and Controlled Substance Testing

Respondent shall completely abstain from the use or possession of controlled ~~or illegal~~ substances or alcohol 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 is notified that a test is required~~ a required test notification is received. 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.

~~If Respondent tests positive for a controlled substance or alcohol, Respondent's license shall be automatically suspended.~~

10-11. Abstain from Use of Alcohol / Submit to ~~Drug and Alcohol~~ and Controlled Substance Testing

Respondent shall completely abstain from the intake of alcohol and controlled substances during the period of probation.

Respondent shall immediately submit to random and directed ~~drug and alcohol~~ testing for alcohol and controlled substances, 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 to ~~the~~ Respondent's 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~~ Respondent must submit to ~~drug~~ testing. Respondent shall ~~submit his or her~~ take the drug test on the same day that ~~he or she is notified that a test is required~~ a required test notification is received. 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.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license shall be automatically suspended.

41.12. Restricted Practice

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

42.13. 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 _____.

43.14. 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~~ sign a Release of Information authorizing the physician to ~~release all information to~~ communicate with 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 prepared by the medical provider by which the ~~r~~Respondent's physical treatment will be provided.

If ~~r~~Respondent is determined to be ~~unable unfit~~ to practice ~~independently and~~ safely, upon notification by the Board or its designee, the Board shall issue a suspension and ~~r~~Respondent shall immediately cease practice as this shall constitute a violation of probation 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 final decision in this matter ~~determination that respondent may resume practice.~~ This period of suspension shall not apply to the reduction of the probationary time period.

14.15. Monitor Billing System

Within fifteen (15) days from the effective date of the ~~d~~Decision, ~~r~~Respondent shall submit 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. ~~C~~lients 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 timely shall constitute a violation of probation.

15.16. 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 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 shall constitute a violation of probation.

16.17. Law and Ethics Course

Respondent shall take and successfully complete ~~the equivalency of two semester units~~ _____ hours 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~~ provider and course(s) approved by the Board. ~~Classroom attendance must be specifically required.~~ Within 90 days of the effective date of this Decision, ~~r~~Respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course 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. The costs associated with the law and ethics course shall be paid by ~~the~~ ~~r~~Respondent. Units obtained for an approved course in law and ethics shall not be used 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:

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

Specific Language for Standard Terms and Conditions of Probation

(To be included in all Decisions)

178. 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 ~~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.

189. 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)~~. Respondent shall state under penalty of perjury whether ~~he/she~~Respondent has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice ~~r~~Respondent shall continue to submit quarterly reports under penalty of perjury.

1920. 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.

201. 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.

242. Failure to Practice - Tolling

In the event Respondent stops ~~practicing~~ providing therapy to clients in California, Respondent shall notify the Board or its designee in writing 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 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. ~~Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years. Absent good cause, as approved by the Board, the failure to practice for a total of two years shall be a violation of probation. Respondent may not request to have probation tolled if their license has been suspended by the Board.~~

223. Change of Place of Employment, Email Address 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, or email address. The written notice shall include the address, the telephone number and the date of the change.

234. 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.

245. 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).

256. Notification to Employer

Respondent shall provide each of ~~his or her~~ Respondent's current or future employers, including contractors, 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 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 ~~to~~ the Board with 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, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the ~~licensee or registrant's~~ Respondent's work status, performance, and monitoring.

267. 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 [or registration] provided in the ~~d~~Decision by filing an accusation, petition to revoke probation, or statement of issues.

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

278. 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.

289. License Surrender

Following the effective date of this Decision, 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. 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.

2930. 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.~~

31. 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.

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

Cost recovery must be completed ~~six months~~ 180 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 Section 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 [Accusation](#).

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 r~~ Respondent should be informed that in order to stipulate to settlement with the Board, ~~he or she~~ [Respondent](#) may be required to admit to the violations set forth in the Accusation [or Statement of Issues](#). The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

Recommended Language for License Surrenders

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

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its [Decision](#) and [Order](#).

[Contingency](#)

[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 the 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 years 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 \$2,440.00 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

no.) 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 _____ be issued a ~~R~~registration as a _____ 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.”

Recommended Probation Language for Registrants

IT IS HEREBY ORDERED THAT _____ Registration Number _____ issued to Respondent _____ 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.”

Recommended Probation Language for Licensees

IT IS HEREBY ORDERED THAT _____ License Number _____ issued to Respondent _____ 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.

Recommended Language for License Revocation

1. The revocation of Respondent’s (insert license type) license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become part of Respondent’s license history with the Board of Behavioral Sciences.
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 the Decision and Order.
4. Respondent may not petition the Board for reinstatement of the license with the Board for three years from the effective date of the Decision and Order.
5. Respondent understands that if Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in the Accusation No. (insert Accusation number) shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.
6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$ _____ prior to the issuance of a new or reinstated license or registration.
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 Accusation number) shall be deemed true correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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 violated with the definition of the Ccode 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 Fact 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 Default 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 Section 1814, and (2) the evidence 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 Section 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 Section ~~4982.24990.30~~, 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;~~
- 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. In addition, the Board may consider other appropriate and relevant matters not reflected above.

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