

PROPOSED LANGUAGE
Title 16, Division 18, California Code of Regulations
Section 1888

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

Amend Section 1888. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code ~~Section~~ 11400 et seq.), the Board of Behavioral Sciences shall consider the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” [Rev. ~~December 2020 OAL TO INSERT EFFECTIVE DATE~~] which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards Related to Substance Abuse apply to cases of substance abuse. Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), if the conduct found to be a violation involves abuse of drugs and/or alcohol, the violation is presumed to be a substance abuse violation for purposes of Section 315 of the Code. If the licensee or registrant does not rebut the presumption that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation.

(b) Notwithstanding subsection (a), if the conduct found to be a violation involves 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.

(d) All probationers shall submit quarterly reports to the Board. The report “Quarterly Report Form No. DCA BBS 37M-443 (OAL TO INSERT EFFECTIVE DATE)” shall be obtained from the Board and is hereby incorporated by reference.

Note: Authority cited: Sections 315, 315.2, 315.4, 495, 4980.60 and 4990.20, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, 495, 865.1, 865.2, 4982, 4989.54, 4992.3 and 4999.90, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.