

**BUREAU OF AUTOMOTIVE REPAIR
PROPOSED REGULATION**

REHABILITATION AND SUBSTANTIAL RELATIONSHIP CRITERIA

Legend:

Changes addressed in Notice of Proposed Regulatory Action (45-day comment period):

- Deleted text is indicated by ~~strikethrough~~
- Added text is indicated with an underline

Modified text (15-day comment period):

- Deleted text is indicated by ~~double strikethrough~~
- Added text is indicated by double underline

1. Amend Section 3395, Article 12, Chapter 1, Division 33 of Title 16 of the California Code of Regulations

§ 3395. Criteria for Rehabilitation.

(a) When considering the denial, suspension, or revocation of a license or a registration under Section 480 or 490 of the Business and Professions Code on the ground that the applicant or licensee ~~was~~ has been convicted of a crime, the Bureau shall find that the applicant or licensee made a showing of rehabilitation and is presently eligible for a license, if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation., ~~the bureau, in evaluating the rehabilitation of the applicant, will consider the following criteria~~

~~(b) If subdivision (a) is inapplicable, If the applicant has not completed the criminal sentence at issue without a violation of probation, the denial, suspension, or revocation is based on professional misconduct, the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the denial, suspension, or revocation is based on one or more grounds specified in Sections 9884.7, 9884.22, 9889.2, 9889.3, or 9889.4 of the Business and Professions Code, the Bureau shall apply the following criteria in evaluating an applicant's or licensee's rehabilitation. The Bureau shall find that the applicant or licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Bureau finds that the applicant or licensee is rehabilitated:~~

- (1) The nature and ~~severity~~ gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial;
- (2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial ~~which also could be considered as grounds for denial under Section 480 of the Business and Professions Code;~~
- (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (1) or (2);

- (4) ~~The extent to which~~ Whether the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee; and
- (5) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

~~(b) When considering the suspension or revocation of a license or a registration on the grounds that the licensee or registrant has been convicted of a crime, the bureau, in evaluating the rehabilitation of such person, will consider the following criteria:~~

- ~~(1) Nature and severity of the act(s) or offense(s).~~
- ~~(2) Total criminal record.~~
- ~~(3) The time that has elapsed since commission of the act(s) or offense(s).~~
- ~~(4) Whether the licensee or registrant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee or registrant.~~
- ~~(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~
- ~~(6) Evidence, if any, of rehabilitation submitted by the licensee or registrant.~~

(c) When considering a petition for reinstatement of a license or a registration, the ~~b~~Bureau shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

Note: Authority cited: Sections ~~482,~~ 9882, and 9884.19, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 490, 493, and 9884.19, Business and Professions Code.

2. Amend Section 3395.2, Article 12, Chapter 1, Division 33 of Title 16 of the California Code of Regulations

§ 3395.2. ~~Substantial Relationship Criteria for Denial, Suspension, or Revocation of a Registration.~~

- (a) ~~For the purpose of denial, suspension, or revocation of a license or registration pursuant to Section 141, ~~or~~ Division 1.5 (commencing with Section 475), subdivision (b) of Section 9884.22, subdivision (f) of Section 9889.2, subdivisions (a) and (b) of Section 9889.3 of the code, a~~ A crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a licensee or registrant if, to a substantial degree, it ~~shows that the registrant is presently or potentially unfit to perform the functions authorized by the~~ evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by the license or registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, any violation of the provisions of Article 3 of Chapter 20.3 of Division 3 of the Business and Professions Code.

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

(1) The nature and gravity of the offense;

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

(3) The nature and duties of a licensee or registrant.

Note: Authority cited: Sections ~~481, 493,~~ 9882, and 9884.19, Business and Professions Code.

Reference: Sections 141, 475-491, and 493, Business and Professions Code.