

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

MODIFIED TEXT

On the following pages:

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

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

In addition to changes shown as provided above, the following changes have been made to accurately reflect the existing text of each section:

- Insert a section symbol (“§”) before each section number and a period after each section heading.
- Remove all of subdivisions “(a)” and “(b)” following Section 970(a) (preceding new subdivision (b)) because the proposed regulation does not delete those subdivisions, but redesignates them as paragraphs (1) and (2) of new subdivision (c).
- In the authorities cited following Section 970, revise “7312” to read “7312” (no underline), to show that that section already appears in existing text.
- In Section 971(b)(1) (preceding deleted paragraph “(4)” and new subparagraph (A)), insert “the board,” after “that same code,” to show that additional deletion from existing text.
- In the deleted paragraph “(3)” following Section 971(b)(1) (preceding new subparagraph (A)), revise “or” to read “or-or” [sic] to accurately reflect existing text.
- In the references following Section 971, delete “Sections” (and insert “Sections”) to accurately reflect that word’s current absence from existing text.

- **Amend Section 970, Title 16, California Code of Regulations, as follows:**

§ 970. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of a license issued under the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code) pursuant to Section 141, 7362, 7403, 7404, 7405, or Division 1.5 (commencing with Section 475) of that same code, the Business and Professions Code, or a section of the Barbering and Cosmetology Act citing Section 480 of the Business and Professions Code as providing grounds for denial of licensure, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of the licensee the practice or profession in which the applicant seeks licensure or in which the licensee is licensed if to a substantial degree it evidences present or potential unfitness of the applicant or licensee to perform the functions authorized by the licensee license in a manner consistent with the public health, safety or welfare. The crimes or acts shall include, but not be limited to, those involving the following:

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

- (1) The nature and gravity of the offense; offense.
- (2) The number of years elapsed since the date of the offense; and offense.
- (3) The nature and duties of a board licensee the practice or profession in which the applicant seeks licensure or in which the licensee is licensed.

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

- (a)1) Any violation of the provisions of Chapter 10 of Division 3 of the Business and Professions Code or other state or federal laws governing the practice of barbering and cosmetology.
- (b)2) Criminal offenses, including but not limited to, lewd conduct, or use or sale of drugs or narcotics, committed in the course of or in association with the performance of the functions or duties authorized by such license.

*Note: Authority cited: Sections ~~481, 493 and~~ 7312, Business and Professions Code.
Reference: Sections 141, 480, 481, 488, 490, 492, and 493-135, 163.5, Division 1.5 (Section 475, et seq.), 7321, 7321.5, 7324, 7326, 7330, 7333 and 7404, 7347, 7355, 7362, 7403, 7404, and 7405, Business and Professions Code.*

- **Amend Section 971, Title 16, California Code of Regulations, as follows:**

§ 971. Criteria for Rehabilitation.

(a) Denial of a license.

~~(1) When considering the denial of a licensee, pursuant to section 480, 7362, 7403, or 7405 of the Business and Professions Code, for which application has been made under Chapter 10, Division 3 of the Business and Professions Code, or a section of the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code) citing Section 480 of the Business and Professions Code as providing grounds for denial of licensure, on the ground that the applicant ~~was~~ has been convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, shall consider the following criteria:~~

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

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

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

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

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

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

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

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

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

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

~~(b2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in paragraph (1), the denial is based on professional misconduct, or the denial is based on one or more of the grounds other than a criminal conviction that are specified in Section 7362(c) or 7403 of the Business and Professions Code, the board shall apply the following criteria in evaluating an applicant's rehabilitation: If subdivision (a) is inapplicable, or the board determines that the applicant did not make~~

~~the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:~~

~~(1A) The nature and the gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.~~

~~(2B) Evidence of any act(s), professional misconduct, or ~~crimes~~ 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.~~

~~(3C) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in ~~subdivision (1) or (2)~~ subparagraph (A) or (B).~~

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

~~(5E) The criteria in ~~subdivision (a)(1)-(5)~~, paragraph (1)(A)-(E), as applicable.~~

~~(6F) Evidence, if any, or rehabilitation submitted by the applicant.~~

~~(b)(c)(b) Suspension or revocation of a license.~~

~~(1) When considering the suspension or revocation of a license, issued under Chapter 10, Division 3 of the Business and Professions Code under Section 490, 7362, 7403, 7404, or 7405 of that same code, the board, the Business and Professions Code on the ground that the licensee ~~was~~ has been convicted of a crime, the board shall consider whether the ~~applicant licensee~~ licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~in evaluating the rehabilitation of such person and his or her present eligibility for a license,~~ shall 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 or offense(s).~~

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

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

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

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

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

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

~~(4D) The terms or conditions of parole or probation and the extent to which they~~

bear on the ~~applicant's~~ licensee's rehabilitation.

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

(~~4~~2) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in paragraph (1), the suspension or revocation is based on acts underlying a disciplinary action as described in Section 141 of the Business and Professions Code, or the suspension or revocation is based on one or more of the grounds other than a criminal conviction that are specified in Section 7362(c), 7403, or 7404 of the Business and Professions Code, the board shall apply the following criteria in evaluating the licensee's rehabilitation: ~~If subdivision (c) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (c), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:~~

(~~4~~A) The nature and gravity of the act(s), underlying act(s) in the disciplinary action, or crime(s) under consideration as grounds for ~~denial~~ suspension or revocation.

(~~2~~B) Evidence of any act(s) or ~~crimes~~ crime(s) committed subsequent to the act(s), underlying act(s) in the disciplinary action, or crime(s) under consideration as grounds for ~~denial~~ suspension or revocation which also could be considered as grounds for ~~denial~~ suspension or revocation under Section 480 of the Business and Professions Code.

(~~3~~C) The time that has elapsed since commission of the act(s), underlying act(s) in the disciplinary action, or crime(s) referred to in ~~subdivision (1) or (2)~~ subparagraph (A) or (B).

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

(~~5~~E) The criteria in ~~subdivision (c)(1)-(5)~~ paragraph (1)(A)-(E), as applicable.

(~~6~~F) Evidence, if any, or rehabilitation submitted by the ~~applicant~~ licensee.

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

Note: Authority cited: ~~Sections 482 and Section~~ 7312, Business and Professions Code. Reference: Division 1.5 (Sections 475, et seq.), 7321, 7321.5, 7324, 7326, 7330, 7333 and 7404, Sections 475, 480, 481, 482, 488, ~~490 and~~ 490, 493, 7347, 7355, 7362, 7403, 7404, and 7405, Business and Professions Code.