

16 CCR § 1517

§ 1517. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the certificate of registration of an optometrist pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist to perform the functions authorized by his/her certificate of registration in a manner consistent with the public health, safety, or welfare. ~~Such 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;

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

(3) The nature and duties of an optometrist.

(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 Article 2, Chapter 1, Division 2 of the Code (Sections 525 et seq. of the Code).
- (b) (2) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the Code (Sections 650 et. seq. of the Code) except Sections 651.4 and 654.
- (c) (3) Any violation of the provisions of Chapter 5.4, Division 2 of the Code (Sections 2540 et seq. of the Code).
- (d) (4) Any violation of the provisions of Chapter 7, Division 2 of the Code (Sections 3000 et seq. of the Code).

Note: Authority cited: Section 3025, 493, Business and Professions Code. Reference: Sections 141, 475, 480, 481, and 482, 490, 493, Business and Professions Code.

**Option 1 of 2 [Less prescriptive]**

§ 1516. Application Review and Criteria for Rehabilitation.

[¶]...[¶]

(b) When considering the denial of a license under Section 480 of the Code on the ground that the applicant was 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, will consider the following criteria:~~

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

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

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

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

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

(c) If subdivision (b) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b), 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:

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

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

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

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

(5) The criteria in subdivision (b)(1)-(5), as applicable.

(5)(6) Evidence, if any, of rehabilitation submitted by the applicant.

(e)(d) When considering the suspension or revocation of a license on the grounds that the licensee has been convicted of a crime, the Board shall consider whether the 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, will consider the following criteria:~~

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

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

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

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

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

(e) If subdivision (a) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), 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 applicant is rehabilitated:

(1) Nature and severity of the act(s) or offense(s) crime(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s) crime(s).

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

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

~~(5)~~(6) If applicable, evidence of ~~expungement~~ ~~dismissal~~ proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6)~~(7) Evidence, if any, of rehabilitation submitted by the licensee.

~~(d)~~(f) When considering a petition for reinstatement of a license under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsections ~~(e)~~ and (e).

Note: Authority cited: Sections ~~482~~, 3023, 3025, 3025.1, 3056 and 3057, Business and Professions Code. Reference: Sections ~~141~~, 475, 480, 481, 482, ~~488, 493~~, 3056 and 3057, Business and Professions Code; and Section 11522, Government Code.

### ***Option 2 of 2 [More prescriptive]***

§ 1516. Application Review and Criteria for Rehabilitation.

[¶]...[¶]

(b) When considering the denial of a license under Section 480 of the Code, the Board on ~~in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria~~ the ground that the applicant was convicted of a crime, the board shall find that 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.

(c) If subdivision (b) is inapplicable, 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:

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

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

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

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

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

[¶]...[¶]

Note: Authority cited: Sections 482, 3023, 3025, 3025.1, 3056 and 3057, Business and Professions Code. Reference: Sections 475, 480, 481, 482, 488, 493, 3056 and 3057, Business and Professions Code; and Section 11522, Government Code.