

**BUREAU OF AUTOMOTIVE REPAIR
PROPOSED REGULATION**

REHABILITATION AND SUBSTANTIAL RELATIONSHIP CRITERIA

Legend: Added text is indicated with an underline.
 Deleted text is indicated by ~~strikeout~~.

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 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, 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) 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 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~~ 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) of the code, 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 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.