

California Code of Regulations
Title 4. Professional and Vocational Regulations
Division 3. Bureau of Home Furnishings

PROPOSED LANGUAGE

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

Article 15

§1380. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license pursuant to section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee under Division 8, Chapter 3 (commencing with Section 19000) of the Business and Professions Code, if to a substantial degree it evidences present or potential unfitness of such licensee to perform the functions authorized by histhe license in a manner consistent with the public health, safety, or welfare. Such crimes shall include but not be limited to:

~~(a) Those violations specifically enumerated in Articles 3 through 7, inclusive, and Article 9 of Chapter 3 of Division 8 of the Business and Professions Code. (Chapter 3 of Division 8 of the Business and Professions Code is commonly called the Home Furnishings Act.)~~

~~(b) Those violations specifically enumerated in Article 1 of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code. (Article 1 of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code is that portion of the Code which concerns general false and misleading advertising practices.)~~

(b) In making the substantial relationship determination required under subsection (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 the licensee.

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

- (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 3 of Division 8 of the Business and Professions Code.
- (2) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to benefit oneself or another or to harm another.
- (3) Violating or attempting to violate Article 1 (commencing with Section 17500) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to false or misleading advertising.

(d) If an applicant or licensee wishes to contest a license denial, suspension, or revocation based on a conviction, the applicant or licensee may request a hearing pursuant to Business and Professions Code section 19209 to determine if the license should be denied, suspended, or revoked.

Note: Authority cited: Sections 481, 493, and 19034, Business and Professions Code.
Reference: Sections 141, 475, 480, and 481, 488, 490, 493, 19063, 19064, 19209, and 19210, Business and Professions Code.

§1381. Criteria for Rehabilitation.

~~When considering the denial, suspension or revocation of a license on the ground of conviction of a crime the Bureau will consider the following criteria:~~

- ~~(a) The nature and severity of the offense(s).~~
- ~~(b) Total criminal record.~~
- ~~(c) Extent of time that has elapsed since commission of the offense(s).~~
- ~~(d) Whether the licensee has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.~~
- ~~(e) Evidence, if any, of rehabilitation submitted by the licensee.~~
 - ~~(1) Include (if applicable) evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~

(a) When considering the denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code on the ground that the applicant or licensee was convicted of a crime, the Bureau shall consider whether 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. In making the determination, the Bureau shall 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 or licensee's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified and the reason(s) for modification.

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

- (1) The nature and severity of the crime(s) or act(s) that are under consideration as the grounds for denial, suspension, or revocation.
- (2) The total criminal record, including evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, suspension, or revocation under Division 1.5 (commencing with Section 475) 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) Whether the applicant or licensee has complied with any terms of parole, probations, restitution, or any other sanctions lawfully imposed against the applicant or licensee.

(5) The criteria in subsections (a)(1)–(a)(5), as applicable.

(6) Evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(7) The applicant or licensee has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(8) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

Note: Authority cited: Sections 482 and 19034, Business and Professions Code.
Reference: Sections 480, 481, and 482, 488, 490, and 493, Business and Professions Code.