

PHYSICAL THERAPY BOARD OF CALIFORNIA
Proposed Language

Amend Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

1399.15. Uniform Standards Related to Substance Abuse and Model Guidelines for Issuing Citations and Imposing Discipline.

- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the Board shall consider the ~~guidelines entitled~~ “Uniform Standards Related to Substance Abuse and Model Guidelines for Issuing Citations and Imposing Discipline”, Revised ~~on June 16, 2009~~ August 2011, 4th Edition, which are hereby incorporated by reference. The Uniform Standards apply to a substance abusing licensee. Notwithstanding subsection (b), deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation – for example: The presence of mitigating or aggravating factors; the age of the case; evidentiary problems.
- (b) If the conduct found to be a violation involves drugs and/or or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Business and Professions Code. If the licensee does not rebut that presumption, then the Uniform Standards for substance abusing licensee shall apply unless the licensee established that, in his or her particular case, appropriate public protection can be provided with modification or omission of a specific standard as a term of probation.
- (c) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

As used in this section, the term "sex offense" shall mean any of the following:

- (1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
- (2) Any offense defined in Section 261.5, 313.1, 647b, or 647 subsections (a) or (3) of the Penal Code or a finding that a person committed such an offense.
- (4) Any attempt to commit any of the offenses specified in this section.
- (5) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section."

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2660, 2660.1, 2661 and 2661.5, Business and Professions Code: and Section 11425.50(e), Government Code.