STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF PSYCHOLOGY – Administration
1625 N. Market Blvd., N-215, Sacramento, CA 95834
P (916) 574-7720 F (916) 574-8671 www.psychology.ca.gov

MEMORANDUM

DATE	June 12, 2015
TO	Board of Psychology Members
FROM	Jonathan Burke Administrative Services Coordinator
SUBJECT	**Title 16, CCR, Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

Background:

The current Disciplinary Guidelines are being amended to be made consistent with current law. The proposal incorporates the Uniform Standards Related to Substance Abusing Licensees to describe the mandatory conditions that apply to a substance abusing applicant or licensee, updates the standard and optional terms and conditions of probation, and adopts uniform and specific standards that the Board must use in dealing with substance-abusing licensees, registrants, or applicants to increase consumer protection.

The Uniform Standards that are being incorporated into the Board's existing Disciplinary Guidelines are mandated by Senate Bill 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008).

The hearing took place on August 22, 2014, at the Board meeting. The Board issued a 15-Day Notice of modified text for newly amended language that was submitted to the Board for approval at the November Board Meeting. The Board approved the language and the Final Rulemaking File was submitted to the Department of Consumer Affairs for review. The following areas were identified to be amended:

- Language relating to suspending licenses when the Board has the authority to order a respondent to cease practice.
- Under the Major and Minor Violations the Board was asked by the the legislative and policy review unit, to include five (5) consequences of minor violations, when the Uniform Standards call for six (6); "Required re-evaluation and/or testing" was added to the minor violations.
- Several grammatical and consistency issues have been fixed.

The Second 15-Day Notice closed on May 12, 2015. No comments were received and the Board approved the language. The completed Rulemaking File was submitted to DCA for approval on June 5, 2015.

Action Requested:

This item is informational and there is no action requested at this time.

Attachment A is the Second Modification of Proposed Regulations
Attachment B is the Second Modification of Disciplinary Guidelines

BOARD OF PSYCHOLOGY

Proposed Modified Text of Regulations

Single underline indicates originally proposed new language. Single strikeout indicates originally proposed deleted language.

Changes to the originally proposed language are shown by double underline for new text and double strikeout for deleted text.

Changes to the first modified text are highlighted blue with by double underline for new text and with double strikeout for deleted text.

DISCIPLINARY GUIDELINES AND UNIFORM
STANDARDS RELATED TO SUBSTANCE ABUSE

Section 1397.12 of Division 13.1 of Title 16 of the California Code of Regulations is renumbered as section 1395.2 to now be included in Article 7, Standards Related to Denial, Discipline, and Reinstatement of Licenses or Registrations, and is amended to read as follows:

~~§ 1397.12.~~ § 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Psychology shall consider ~~the disciplinary guidelines entitled~~ and apply the "Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (~~29/144~~/15)", ~~as amended 2/07"~~ which ~~are~~ is hereby incorporated by reference. The Board shall also apply as required the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011), which is hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards describe the mandatory conditions that apply to a substance-abusing licensee, except that the Board may impose more restrictive conditions if necessary to protect the public.

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all relevant terms and conditions contained in the Disciplinary Guidelines, the Uniform Standards Related to Substance Abusing Licensees for a substance abusing licensee shall apply as written and be used in the order placing the license on probation.

(c) Deviation from th~~ese~~ Disciplinary G~~g~~uidelines ~~and orders~~, including the standard terms of probation, is appropriate where the Board of Psychology in its sole discretion determines that the facts of the particular case warrant such a deviation; -for example:

the presence of mitigating or aggravating factors; the age of the case; or evidentiary ~~problems~~ issues.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e), Government Code.

BOARD OF PSYCHOLOGY

Second Modified Text of Regulations

Single underline indicates originally proposed new language. Single strikeout indicates originally proposed deleted language.

Changes to the originally proposed language are shown with double underline for new text and double strikeout for deleted text.

Changes to the first modified text are shown highlighted blue with double underline for new text and highlighted blue with double strikeout for deleted text.

STATE OF CALIFORNIA

DEPARTMENT OF CONSUMER AFFAIRS

BOARD OF PSYCHOLOGY

DISCIPLINARY GUIDELINES AND UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSING LICENSEES

ADOPTED 11/92 - EFFECTIVE 1/1/93 –
AMENDED 7/1/96, AMENDED 4/1/99, AMENDED 9/1/02,
AMENDED 2/07, AMENDED ~~29/14~~ 4/15

1625 North Market Blvd., Suite N-215
Sacramento, CA 95834
Phone: (916) 574-7220 Fax: (916) 574-8671
~~www.psychboard.ca.gov~~ www.psychology.ca.gov

TABLE OF CONTENTS

§ 1395.2~~1~~. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees — Page 2

I. Introduction — Page 3

II. Disciplinary Guidelines — Page 4

A. General Considerations — Page 4

B. Penalty Guidelines for Disciplinary Actions — Page 5

III. Terms and Conditions of Probation — Page 13

A. Optional Terms and Conditions of Probation (1-13) — Page 13

B. Standard Terms and Conditions of Probation (14-31) — Page 25

C. Standard Terms and Conditions for Stipulations for Surrender or Revocation — Page 29

IV. Proposed Decisions — Page 30

A. Contents — Page 20

B. Recommended Language for Issuance and Placement of a License on Probation, and Reinstatement of License — Page 31

V. Rehabilitation Criteria for Reinstatement/Penalty Relief — Page 32

VI. Uniform Standards for Substance Abusing Licensees — Page 33

DISCIPLINARY GUIDELINES AND UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSING LICENSEES

Article 7. Standards Related to Denial, Discipline, and Reinstatement of Licenses

§ 1395.2. Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Psychology shall consider and apply the "Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (~~29/144~~/15) ", which is hereby incorporated by reference. The Board shall also apply as required the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011), which is hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards describe the conditions that apply as written to a substance-abusing licensee, except that the Board may impose more restrictive conditions if necessary to protect the public.

(b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all relevant terms and conditions contained in the Disciplinary Guidelines, the Uniform Standards Related to Substance Abusing Licensees for a substance abusing licensee shall apply as written and be used in the order placing the license on probation.

(c) Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board of Psychology in its sole discretion determines that the facts of the particular case warrant such a deviation; for example: the presence of mitigating or aggravating factors; the age of the case; or evidentiary issues.

NOTE: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2960, 2960.05, 2960.1, 2960.5, 2960.6, 2961, 2962, 2963, 2964, 2964.3, 2964.5, 2964.6, 2965, 2966 and 2969, Business and Professions Code; and Section 11425.50(e), Government Code.

I. INTRODUCTION

The Board of Psychology of the California Department of Consumer Affairs (hereinafter "the Board") is a consumer protection agency with the ~~primary mission~~ priority of protecting consumers of psychological services from ~~potentially harmful practices~~ unsafe, incompetent, or negligent practitioners in exercising its licensing, regulatory, and disciplinary functions~~=~~. In keeping with its mandate to protect this particularly vulnerable population, the Board has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Psychology Licensing Law. ~~-~~This document, designed for use by administrative law judges, attorneys, psychologists, registered psychologists, psychology assistants, and others involved in the disciplinary process, and ultimately the Board, and may be revised from time to time.

For purposes of this document, in addition to licensure as a psychologist, the term "license" includes a ~~psychologist~~ psychological assistant registration and registered psychologist registration. ~~-~~The terms and conditions of probation are divided into two general categories:

(1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
(2) Optional Conditions are those conditions that address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

The Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees, which are incorporated by reference by section 1395.2 of the Regulations, are summarized as they apply to the Board at the end of this document. Those summaries indicate which of the Uniform Standards is being reflected, as well as which of the Terms and Conditions implement that standard~~=~~. Uniform Standard numbers 13, 14, 15, 16, and a portion of 4, however, are neither summarized, nor implemented as a term or condition of probation: #s 13-15 apply to diversion programs, which this Board does not use; #16 relates to reporting to the Legislature; and portions of #4 relate to specimen collection, which is implemented by contract.

Except as provided in the Uniform Standards Related to Substance Abusing Licensees, the ~~The~~ Board recognizes that an ~~rare~~ individual case may necessitate a departure from these guidelines for disciplinary orders~~.~~. However, in such a ~~rare~~ case, the mitigating or aggravating circumstances must be detailed in the "Finding of Fact," which is in every Proposed Decision, so that the circumstances can be better understood and evaluated by the Board before final action is taken.

If at the time of hearing, the Administrative Law Judge finds that the respondent, for any reason, is not capable of safe practice, the Board expects outright revocation or denial of the license~~.~~. This is particularly true in any case of patient sexual abuse~~.~~. In less

egregious cases, a stayed revocation with probation pursuant to the attached Penalty Guidelines would be appropriate.

~~**BOARD INFORMATION**~~

~~Board of Psychology Contact Information:~~

~~Board of Psychology~~
~~1422 Howe Avenue, Suite 22~~
~~Sacramento, CA 95825-3200~~
~~(916) 263-2696 / FAX (916) 263-2697~~
~~www.psychboard.ca.gov~~

~~Staff with Authority to Negotiate Settlements:~~

~~Robert Kahane, Executive Officer (916) 263-2696~~
~~CALNET 435-2696~~

~~Jeffrey Thomas, Assistant Executive Officer (916) 263-2696~~
~~CALNET 435-2696~~

~~Victoria Thornton, Enforcement Coordinator(916) 263-0321~~
~~CALNET 435-0321~~

II. DISCIPLINARY GUIDELINES

A. GENERAL CONSIDERATIONS

Factors to be ~~Considered~~considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the ~~general public~~public.
3. Prior record of discipline or citations.
4. Number and/or variety of current violations.
5. Mitigation and aggravation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.

11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

Pursuant to section 2960.1 of the Code (set out below in the Penalty Guidelines), any proposed decision or decision that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the Administrative Law Judge.

Pursuant to section 2964.3 of the Code, any person required to register as a sex offender pursuant to Section 290 of the Penal Code is not eligible for licensure or registration by the Board.

Except where an order is required by statute, deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board determines that the facts of the particular case warrant such a deviation~~=~~. The Board may impose more restrictive conditions if necessary to protect the public.

B. PENALTY GUIDELINES FOR DISCIPLINARY ACTIONS

~~The following is an attempt to provide information regarding the range of offenses under the Psychology Licensing Law and the California Code of Regulations and the appropriate penalty for each offense:~~. The general bases for discipline are listed by statute number in the Business & Professions Code~~:~~. An accusation, statement of issues, or other charging document may also allege violations of other related statutes or regulations~~:~~. The bases are followed by the Board-determined penalty, including the names and numbers for the optional terms and conditions~~:~~. The standard terms of probation as stated shall be included in all decisions and orders. ~~Each penalty listed is followed in parenthesis by a number which corresponds with a number under the chapter "Terms and Conditions of Probation." "Legal "enacted" dates follow the definition of some of the most frequently used disciplinary subdivisions. . Examples are given for illustrative purposes, but no attempt is made to catalog all possible offenses. .~~ **Except as provided in the Uniform Standards for Substance Abusing Licensees where there is a finding that respondent is a substance-abusing licensee**, the ~~The~~ Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations that take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision for final action.

Business and Professions Code § 2960

2960 **GENERAL UNPROFESSIONAL CONDUCT** ~~**— Enacted 3/30/94**~~

~~MAXIMUM :~~MAXIMUM: ~~Unprofessional conduct involving inappropriate behavior resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration.

MINIMUM: ~~Unprofessional conduct involving inappropriate behavior resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, Depending upon the circumstances, up to 5 year probation, psychological evaluation and/or therapy if appropriate (2) and (7), ~~California Psychology Supplemental Examination (CPSE)~~ California Psychology Law and Ethics Examination (CPLEE) (8), and standard terms and conditions (~~15~~ 14-~~29~~31)

2960(a) **CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE PRACTICE OF PSYCHOLOGY** ~~**— Enacted 1/1/67 for convictions involving moral turpitude. . Amended 1/1/76 for convictions substantially related to the practice of psychology.**~~

MAXIMUM: ~~Conviction of a crime of violence against a person or property or economic crime resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Conviction of other crime resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, 5 year probation, billing monitor (if financial crime) (4), therapy (7), ~~(CPSE)~~ CPLEE (8), restitution (if appropriate) (9), ~~community service (14),~~ and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(b) **USE OF CONTROLLED SUBSTANCE OR ALCOHOL IN A DANGEROUS MANNER**

MAXIMUM: ~~Abuse of alcohol or a controlled substance resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Abuse of alcohol or a controlled substance to the extent that ability to safely render psychological services is impaired.~~

~~Penalty:~~ Revocation stayed, 5 year probation, physical examination (if appropriate) (3), practice monitor (4), psychological evaluation and ongoing therapy (if appropriate) (2) and (7), clinical diagnostic evaluation (10), participation in an alcohol/drug abuse treatment program (~~10~~11) and ~~continuing therapy with a psychologist trained in substance abuse treatment~~ ongoing support group (~~11~~12), abstain from all non-prescribed, controlled drugs and alcohol/biological fluid and specimen testing [required for substance-abusing licensees] (~~12~~13), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(c) FRAUDULENTLY OR NEGLECTFULLY MISREPRESENTING THE TYPE OR STATUS OF LICENSE OR REGISTRATION ACTUALLY HELD

MAXIMUM: ~~Misrepresentation of status resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Misrepresentation of status resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5-year~~5-year probation, ~~community service (14),~~ and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(d) IMPERSONATING ANOTHER PERSON HOLDING A PSYCHOLOGY LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER LICENSE OR REGISTRATION

MAXIMUM: ~~Impersonation or use resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Impersonation or use resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5-year~~5-year probation, psychological evaluation (2), ~~(CPSE)~~ CPLEE (8), ~~community service (14),~~ and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(e) PROCURING A LICENSE BY FRAUD OR DECEPTION

Penalty: Revocation is the only suitable penalty inasmuch as the license would not have been issued but for the fraud or deception~~—~~. If the fraud is substantiated prior to issuance of the license or

registration, then denial of the application is the only suitable penalty.

2960(f) ACCEPTING REMUNERATION OR PAYING FOR REFERRALS TO OTHER PROFESSIONALS ~~- Enacted 1/1/68 (formerly subdivision(e))~~

MAXIMUM: ~~Accepting substantial remuneration or paying for referrals resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation~~,~~; denial of license or registration ~~application~~.

MINIMUM: ~~Accepting remuneration in isolated instances resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5 year~~5-year probation, billing monitor (4), ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(g) VIOLATING SECTION 17500 OF THE BUSINESS AND PROFESSIONS CODE REGARDING ADVERTISING

~~Repeated infractions of statute regarding advertising.~~

Penalty: Revocation stayed, ~~5 year~~5-year probation, ~~community service (14)~~ and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(h) VIOLATION OF CONFIDENTIALITY - ~~Enacted 1/1/68 (formerly subdivision (g))~~

MAXIMUM: ~~Unlawfully divulging information resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation~~,~~; denial of license or registration ~~application~~.

MINIMUM: ~~Unlawfully divulging information resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5 year~~5-year probation, practice monitor (4), ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(i) VIOLATION OF RULES OF PROFESSIONAL CONDUCT ~~(FOR EXAMPLE, VIOLATION OF SECTION 1396.1, INTERPERSONAL RELATIONSHIP) - Enacted 1/1/68 (formerly subdivision (h))~~

~~See 2960~~

MAXIMUM: Revocation; denial of license or registration.

MINIMUM: Revocation stayed, depending upon the circumstances, up to 5 year probation, psychological evaluation and/or therapy if appropriate (2) and (7), ~~California Psychology Supplemental Law and Ethics Examination~~ CPLEE (8), and standard terms and conditions (14-31).

2960(j) GROSS NEGLIGENCE IN THE PRACTICE OF PSYCHOLOGY - ~~Enacted 1/1/68 (formerly subdivision (i))~~

MAXIMUM: ~~Gross negligence resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Gross negligence resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5 year~~5-year probation, psychological evaluation prior to resumption of practice (condition precedent) (2), practice monitor/billing monitor (4), patient population restriction (if appropriate) (6), therapy (7), ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(k) VIOLATING ANY PROVISION OF THIS CHAPTER OR REGULATIONS DULY ADOPTED THEREUNDER ~~Enacted 1/1/68 (formerly subdivision (j))~~

~~No guidelines.~~ . Refer to underlying statute or regulation.

2960(l) AIDING OR ABETTING UNLICENSED PRACTICE

MAXIMUM: ~~Multiple instances of aiding or abetting unlicensed practice, which results in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Isolated instance of aiding or abetting unlicensed practice resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5 year~~5-year probation, ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(m) DISCIPLINARY ACTION BY ANOTHER STATE AGAINST A LICENSE OR REGISTRATION

In evaluating the appropriate penalty, identify the comparable California statute(s) and corresponding penalty(s).

2960(n) DISHONEST, CORRUPT OR FRAUDULENT ACT – ~~Enacted 1/1/80~~

MAXIMUM: ~~Dishonest or fraudulent act resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Dishonest or fraudulent act resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5-year~~5-year probation, psychological evaluation and ongoing therapy if appropriate (2), billing monitor (4), ~~(CPSE)~~ CPLEE (8), full restitution (9), ~~community service (14)~~ and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(o); 726 ANY ACT OF SEXUAL ABUSE, OR SEXUAL RELATIONS WITH A PATIENT OR FORMER PATIENT WITHIN TWO YEARS FOLLOWING TERMINATION OF THERAPY, OR SEXUAL MISCONDUCT THAT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF A PSYCHOLOGIST OR PSYCHOLOGICAL ASSISTANT OR REGISTERED PSYCHOLOGIST.

Penalty: When a finding of sexual misconduct occurs, revocation or surrender of license/registration and/or denial of ~~application for~~ license or registration MUST be the penalty ordered by the Administrative Law Judge.

NO MINIMUM PENALTY.

NOTE: Business and Professions Code Section 2960.1 states: "Notwithstanding Section 2960, any proposed decision or decision issued under this chapter 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 or registrant engaged in any acts of sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the ~~a~~Administrative ~~l~~Law ~~j~~Judge."

2960(p) FUNCTIONING OUTSIDE FIELD(S) OF COMPETENCE – ~~Enacted 1/1/83 (Renumbered 1/1/93. . Formerly subdivision (o))~~

MAXIMUM: ~~Functioning outside field(s) of competence resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Functioning outside field(s) of competence resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, ~~5 year~~5-year probation, practice monitor (4), patient population restriction (6), ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(q) WILLFUL FAILURE TO VERIFY AN APPLICANT'S SUPERVISED EXPERIENCE ~~(Renumbered 1/1/93. Formerly subdivision (p))~~

Penalty: Revocation stayed, ~~5 year~~5-year probation and standard terms and conditions (~~15~~ 14-~~29~~31).

2960(r) REPEATED NEGLIGENT ACTS ~~– Enacted 3/30/94~~

MAXIMUM: ~~Repeated negligent acts resulting in substantial harm to patient(s).~~

~~Penalty:~~ Revocation; denial of license or registration ~~application~~.

MINIMUM: ~~Repeated negligent acts resulting in minimal or no harm to patient(s).~~

~~Penalty:~~ Revocation stayed, depending on the circumstances, up to ~~5 year~~5-year probation, psychological evaluation prior to resumption of practice (condition precedent) (2), practice monitor (4), ~~(CPSE)~~ CPLEE (8), and standard terms and conditions (~~15~~ 14-~~29~~31).

III. TERMS AND CONDITIONS OF PROBATION

Terms and conditions of probation are divided into two categories~~.~~. The first category consists of **optional terms and conditions** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case~~.~~. The second category consists of the **standard terms and conditions,** which must appear in all Proposed Decisions and ~~proposed stipulated agreements~~Stipulated Settlements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-~~14~~ 13) that are being imposed be listed first in sequence followed

immediately by all of the standard terms and conditions, which include cost recovery (~~15~~ 14~~-29~~31).

A. OPTIONAL TERMS AND CONDITIONS

Listed below are optional conditions of probation that the Board would expect to be included in any Proposed Decision or Stipulation as appropriate.

1. Actual Suspension

As part of probation, respondent is suspended from the practice of psychology for _____ days beginning with the effective date of this Decision~~.~~. During the suspension, any probation period is tolled and will not commence again until the suspension is completed.

RATIONALE: A suspension longer than 6 months is not effective, and a violation or violations warranting a longer suspension should result in revocation, not stayed.

2. Psychological Evaluation

Within ninety (90) days of the effective date of this Decision and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a Board-appointed California-licensed psychologist~~.~~. Respondent shall sign a release that authorizes the evaluator to furnish the Board a current DSM ~~IV~~ V diagnosis and a written report regarding the respondent's ~~judgement~~ judgment and/or ability to function independently as a psychologist with safety to the public, and whatever other information the Board deems relevant to the case. The completed evaluation is the sole property of the Board~~.~~. The evaluation should not be disclosed to anyone not authorized by the ~~b~~Board or by court order.

If the Board concludes from the results of the evaluation that respondent is unable to practice independently and safely, upon written notice from the Board, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within thirty (30) days and shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice~~.~~. The term of probation shall be extended by ~~During~~ this ~~suspension~~ period of time that he or she was ordered to cease practice~~, probation will be tolled and will not commence again until the suspension is completed~~.

If not otherwise ordered herein, if ongoing psychotherapy is recommended in the psychological evaluation, the Board will notify respondent in writing to submit to such therapy and to select a psychotherapist for approval by the Board or its designee within thirty (30) days of such notification~~.~~. The therapist shall (1) be a California-licensed psychologist with a clear and current license; (2) have no previous business,

professional, personal or other relationship with respondent; (3) not be the same person as respondent's practice or billing monitor~~.~~. Frequency of psychotherapy shall be determined upon recommendation of the treating psychotherapist with approval by the Board or its designee~~; however, psychotherapy shall, at a minimum, consist of one one-hour session per week.~~ . Respondent shall continue psychotherapy until released by the approved psychologist and approved by the Board or its designee~~.~~. The Board or its designee may order a re-evaluation upon receipt of the therapist's recommendation.

Respondent shall execute a release authorizing the therapist to provide to the Board any information the Board or its designee deems appropriate, including quarterly reports of respondent's therapeutic progress~~.~~. Respondent shall furnish a copy of this Decision to the therapist~~.~~. If the therapist determines that the respondent cannot continue to independently render psychological services, with safety to the public, he/she shall notify the Board immediately.

Respondent shall pay all costs associated with the psychological evaluation and ongoing psychotherapy~~.~~. Failure to pay costs will be considered a violation of the probation order.

Option of Evaluation as a **Condition Precedent:**

In some cases, the psychological evaluation may be imposed as either a condition precedent to the stay of revocation, or to the issuance or reinstatement of a license, so that the respondent or petitioner is not entitled to begin or continue practice until found to be safe to do so~~.~~. In such cases, the following language shall be used as the first sentence of the first paragraph of this term:

As a condition precedent to the [stay of revocation] [issuance] [re-issuance] of a license, within ninety (90) days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a Board-appointed California-licensed psychologist.

In addition, the following language shall also be used as the first sentence of the second paragraph of this term:

If the Board concludes from the results of the evaluation that [respondent] [petitioner] is unable to practice independently and safely, upon written notice from the Board [respondent shall, in accordance with professional standards, appropriately refer/terminate existing patients within thirty (30) days and shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice] [respondent or petitioner shall not be issued or re-issued a license until a Board-appointed evaluator determines that respondent or petitioner is safe to practice].

~~NOTE~~ RATIONALE: **Psychological evaluations shall be utilized when an offense calls into question the ~~judgement~~ judgment and/or emotional and/or mental condition of the respondent or where there has been a history of abuse or dependency of alcohol or controlled substances~~.~~. When appropriate, respondent shall be barred from rendering psychological services under the terms of probation until he or she has undergone an evaluation, the evaluator has recommended resumption of practice, and the Board has accepted and approved the evaluation.**

3. **Physical Examination**

Within ninety (90) days of the effective date of this Decision, respondent shall undergo a physical examination by a ~~licensed~~ physician and surgeon (physician) licensed in California and approved by the Board~~.~~. Respondent shall sign a release authorizing the physician to furnish the Board a report that shall provide an assessment of respondent's physical condition and capability to safely provide psychological services to the public. If the evaluating physician determines that respondent's physical condition prevents safe practice, or that he or she can only practice with restrictions, the physician shall notify the Board, in writing, within five (5) working days.

The Board shall notify respondent in writing of the physician's determination of unfitness to practice, and shall order the respondent to cease practice or place restrictions on respondent's practice~~.~~. ~~respondent~~ Respondent shall comply with any order to cease practice or restriction of his or her practice, and shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within thirty (30) days~~.~~. Respondent ~~and~~ shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice, and the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing. ~~During this suspension period,~~ The term of probation ~~will~~ shall be ~~tolled~~ extended by the period of time during which respondent is ordered to cease practice~~ and will not commence again until the suspension is completed.~~. If the evaluating physician determines it to be necessary, a recommended treatment program will be instituted and followed by the respondent with the physician providing written progress reports to the Board on a quarterly basis or as otherwise determined by the Board or its designee.

It shall be the respondent's responsibility to assure that the required quarterly progress reports are filed by the treating physician in a timely manner~~.~~. Respondent shall pay all costs of such examination(s)~~.~~. Failure to pay these costs shall be considered a violation of probation.

~~NOTE~~ RATIONALE: **This condition permits the Board to require the probationer to obtain appropriate treatment for physical problems/disabilities that could affect safe practice of psychology. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.**

4. **Practice Monitor/Billing Monitor/Worksite Monitor** [Uniform Standard #7]

Within ninety (90) days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a [practice monitor]/[billing monitor][worksite monitor]. The [practice monitor][billing monitor] shall (1) be a California-licensed psychologist with a clear and current license; (2) have no prior business, professional, personal or other relationship with respondent; and (3) not be the same person as respondent's therapist~~.~~. The monitor's education and experience shall be in the same field of practice as that of the respondent~~.~~. The [practice monitor] [billing monitor] may also serve as a worksite monitor, **if ordered for a substance-abusing licensee**, as long as he or she also meets the requirements of the Uniform Standards for a worksite monitor.

Once approved, the monitor(s) shall submit to the Board or its designee a plan by which respondent's practice shall be monitored~~.~~. Monitoring shall consist of a least one hour per week of individual face to face meetings and shall continue during the entire probationary period unless modified or terminated by the Board or its designee~~.~~. The respondent shall provide the [practice] [billing] monitor with a copy of this Decision and access to respondent's fiscal and/or patient records~~.~~. Respondent shall obtain any necessary patient releases to enable the [practice] [billing] monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to divulge any information that the Board may request~~.~~. It shall be respondent's responsibility to assure that the monitor submits written reports to the Board or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of respondent's performance.

Respondent shall notify all current and potential patients of any term or condition of probation that will affect their therapy or the confidentiality of their records (such as this condition, which requires a [practice monitor]/[billing monitor])~~.~~. Such notifications shall be signed by each patient prior to continuing or commencing treatment.

Add the language of the next 3 paragraphs regarding reporting by a worksite monitor if one is ordered for a substance-abusing licensee:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board~~.~~. Reporting by the worksite monitor to the Board shall be as follows:
Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence~~.~~. If the occurrence is not during the Board's normal business hours, the oral report must be within one (1)

hour of the next business day~~.~~. A written report shall be submitted to the Board within forty-eight (48) hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the ~~board~~Board~~.~~. The report shall include as applicable: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If the monitor(s) quit(s) or is otherwise no longer available, respondent shall notify the Board within ten (10) days and get approval from the Board for a new monitor within thirty (30) days~~.~~. If no new monitor is approved within thirty (30) days, respondent shall not practice until a new monitor has been approved by the Board or its designee. ~~During this period of non-practice,~~ The term of probation ~~will be tolled and will not commence again until the period of non-practice is completed~~ shall be extended by the period of time during which respondent is ordered to cease practice~~.~~. Respondent shall pay all costs associated with this monitoring requirement~~.~~. Failure to pay these costs shall be considered a violation of probation.

~~NOTE~~ RATIONALE: Monitoring shall be utilized when respondent's ability to function independently is in doubt or when fiscal improprieties have occurred, as a result of a deficiency in knowledge or skills, or as a result of questionable ~~judgement~~ judgment. A worksite monitor may be ordered where the Uniform Standards Related to a Substance-Abusing Licensee apply, if necessary for the protection of the public.

~~**5. Notification to Employer**~~

~~Respondent shall provide each of his or her employers, where respondent is providing psychological services, a copy of this Decision and the Accusation or Statement of Issues before commencing employment. . Notification to the respondent's current employer shall occur no later than the effective date of the Decision. . Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.~~

~~6.~~5. Restriction of Patient Population

Respondent's practice shall be restricted to exclude patients who are _____. Within thirty (30) days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this

restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation.

~~NOTE~~ RATIONALE: In cases wherein some factor of the patient population at large (e.g. age, gender, practice setting) may put a patient at risk if in therapy with the respondent, language appropriate to the case may be developed to restrict such a population~~.~~. The language would vary greatly by case.

~~7.~~6. Psychotherapy

Within ninety (90) days of the effective date of this Decision, a therapist shall be selected by the respondent for approval by the Board~~.~~. The therapist shall (1) be a California-licensed psychologist with a clear and current license; (2) have no previous business, professional, personal, or other relationship with respondent; and (3) not be the same person as respondent's monitor~~.~~. Respondent shall furnish a copy of this Decision to the therapist. Psychotherapy shall, at a minimum, consist of one hour per week over a period of fifty-two (52) consecutive weeks after which it may continue or terminate upon the written recommendation of the therapist with written approval by the Board or its designee~~.~~. The Board or its designee may order a ~~re-~~ psychological evaluation upon receipt of the therapist's recommendation.

Respondent shall execute a release authorizing the therapist to provide to the Board or its designee any information the Board deems appropriate, including quarterly reports of respondent's therapeutic progress~~.~~. It shall be respondent's responsibility to assure that the required quarterly reports are filed by the therapist in a timely manner~~.~~. If the therapist notifies the Board that the therapist believes the respondent cannot continue to safely render psychological services, upon notification from the Board respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within thirty (30) days and shall not resume practice until a Board-appointed evaluator determines that respondent is again safe to practice~~.~~. ~~During this period of non-practice,~~ The term of probation shall be ~~tolled and will not commence again until the period of non-practice is completed~~ extended by the period of time during which respondent is ordered to cease practice.

If, prior to the termination of probation, respondent is found not to be mentally fit to resume the practice of psychology without restrictions, the Board shall retain continuing jurisdiction over the respondent's license and the ~~period~~ term of probation shall be extended until the Board or its designee determines that the respondent is mentally fit to resume the practice of psychology without restrictions.

Cost of psychotherapy is to be paid by the respondent.

~~NOTE~~ RATIONALE: The need for psychotherapy may be determined pursuant to a psychological evaluation or as evident from the facts of the case~~.~~. The frequency of psychotherapy shall be related to the offense involved and the

extent to which the offense calls into question the judgement judgment, motivation, and emotional and/or mental condition of the respondent.

8.7. Examination(s)

California Psychology Supplemental Examination (CPSE) **Examination for Professional Practice in Psychology (EPPP) or California Psychology Law and Ethics Examination (CPLEE)**
Term MUST INCLUDE Eeither Option 1 or Option 2:

Option 1 (Condition Subsequent)

Within ninety (90) days of the effective date of the decision, Rrespondent shall take and pass the (CPSE) California Psychology Law and Ethics Examination [EPPP] [CPLEE] within ninety (90) days of the effective date of the decision. . If respondent fails to take or fails such examination, the Board shall order respondent to cease practice and upon such order respondent shall immediately cease practice, refrain from accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within thirty (30) days and shall not resume practice until the re-examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee. During this period of non-practice, The Board shall order respondent's license suspended until such time as respondent successfully passes the examination(s). The term of probation shall be tolled and will not commence again until the suspension is completed extended by the period of time during whichwhich respondent's practice was ordered ceasedis ordered to cease practicelicense is suspended. . It is respondent's responsibility to contact the Board in writing to make arrangements for such examination. . Respondent shall pay the established examination fee(s). . Reexamination after a failure mustshall be consistent with 16 C.C.R. section 1388(f), and any applicable sections of the Business & Professions Code.

Option 2 (Condition Precedent)

Respondent shall not is ordered to cease the practice of psychology until respondent has taken and passed the CPSE [EPPP] [CPLEE]. During this period of non-practice, The term of probation shall be is tolled and will not commence again until the suspension is completed extended by the period of time during which respondent is ordered to cease practice. It is respondent's responsibility to contact the Board in writing to make arrangements for such examination(s). . Respondent shall pay the established examination fee(s). . Reexamination after a failure must be consistent with 16 C.C.R. section 1388(f), and any applicable sections of the Business & Professions Code.

NOTE RATIONALE: In cases involving evidence of serious deficiencies in the body of knowledge required to be minimally competent to practice independently, it may be appropriate to require the respondent to take and pass

the ~~CPSE~~ EPPP, the national examination for psychologists, because the Board no longer administers an examination that tests knowledge of the practice, during the course of the probation period. In some instances, it may be appropriate ~~for~~ to order that practice ~~to~~ be ~~suspended~~ ceased until the examination ~~is~~ has been taken and passed (condition precedent)~~.~~. In cases involving deficiencies in knowledge of laws and ethics, the CPLEE may be ordered~~.~~. Either one or both examinations may be appropriate, depending on the nature of the violation(s).

~~9.~~8. Restitution

Within ninety (90) days of the effective date of this Decision, respondent shall provide proof to the Board or its designee of restitution in the amount of $_____ paid to _____~~.~~. Failure to pay restitution shall be considered a violation of probation~~.~~. Restitution is to be paid regardless of the tolling of probation.

~~NOTE~~ RATIONALE: In offenses involving economic exploitation, restitution is a necessary term of probation~~.~~. For example, restitution would be a standard term in any case involving Medi-Cal or other insurance fraud~~.~~. The amount of restitution shall be at a minimum the amount of money that was fraudulently obtained by the licensee~~.~~. Evidence relating to the amount of restitution would have to be introduced at the Administrative hearing.

9. Clinical Diagnostic Evaluation [Uniform Standards #s 1 & 2]

Within thirty (30) days of the effective date of the Decision and at any time upon order of the Board, respondent shall undergo a clinical diagnostic evaluation~~.~~. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

The evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, and has three (3) ~~years experience~~years' experience in providing evaluations of health care professionals with substance abuse disorders~~.~~. The evaluator shall not have or have ever had a financial, personal, business or other relationship with the licensee~~.~~. Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board.

Respondent shall pay all costs associated with the clinical diagnostic ~~Cost of such~~ evaluation ~~shall be paid by the Respondent.~~. Failure to pay costs will be considered a violation of the probation order.

The following language for a cease practice order where the evaluation is ordered under the Uniform Standards for a substance-abusing licensee is

mandatory, and discretionary in other cases where it may be relevant:

Respondent is ordered to cease any practice of psychology, beginning on the effective date of the Decision, pending the results of the clinical diagnostic evaluation~~.~~. During this time, Respondent shall submit to random drug testing at least two (2) times per week~~.~~. At any other time that respondent is ordered to undergo a clinical diagnostic evaluation, he or she shall be ordered to cease any practice of psychology for minimum of ~~one month~~~~thirty~~ (30) days pending the results of a clinical diagnostic evaluation and shall, during such time, submit to drug testing at least two (2) times per week.

Upon any order to cease practice, respondent shall not practice psychology until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least thirty (30) days of negative drug test results. The term of probation shall be extended by the period of time during which respondent is ordered to cease practice~~.~~. Respondent shall comply with any terms or conditions made by the Board as a result of the clinical diagnostic evaluation.

RATIONALE: This condition is to be considered in cases where the grounds for discipline involve drugs and/or alcohol, or where the Uniform Standards Related to a Substance-Abusing Licensee apply~~.~~. The cease practice order pending the evaluation is mandatory where the evaluation is ordered for a substance-abusing licensee, and discretionary in other cases where ordered.

10. Alcohol and/or Drug Abuse Treatment Program [Uniform ~~s~~Standard #6]

~~Effective~~ Within thirty (30) days from the effective date of ~~this~~ the Decision, respondent shall enter an inpatient or outpatient alcohol or other drug abuse recovery program ~~(a minimum of six (6) months duration)~~ or an equivalent program as approved by the Board or its designee~~.~~. Components of the treatment program shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation~~.~~. Respondent shall provide the Board or its designee with proof that the approved program was successfully completed~~.~~. Terminating the program without permission or being expelled for cause shall constitute a violation of probation by respondent~~.~~. If respondent so terminates or is expelled from the program, respondent shall be ordered by the Board to immediately cease any practice of psychology, and may not practice unless and until notified by the Board~~.~~. The term of probation shall be extended by the period of time during which respondent is ordered to cease practice.

Respondent shall pay ~~A~~all costs associated with the program ~~shall be paid by respondent.~~. Failure to pay costs will be considered a violation of the probation order.

However, if respondent has already attended such an inpatient or outpatient alcohol or other drug abuse recovery program, as described above, commencing with the

current period of sobriety, respondent shall provide the Board or its designee with proof that the program was successfully completed and this shall suffice to comply with this term of probation.

RATIONALE: This condition is to be considered in cases where the grounds for discipline involve drugs and/or alcohol, or where the Uniform Standards Related to a Substance-Abusing Licensee apply.

11. Ongoing ~~Treatment~~ Support Group Program [Uniform Standard #5]

~~Respondent shall participate in on-going treatment and/or out-patient Treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as approved by the Board or its designee at least once a week during the entire period of probation. .Respondent shall provide documentation of attendance at Twelve Step meetings or the equivalent on a quarterly basis to the Board or its designee. .All expenses associated with the treatment shall be paid by respondent.~~

Within thirty (30) days of the effective date of the ~~decision~~Decision, respondent shall begin and continue attendance at a support/recovery group (e.g., Twelve Step meetings or the equivalent, or a facilitated group with a psychologist trained in alcohol and drug abuse treatment) as ordered by the Board or its designee.

When determining the type and frequency of required support group meeting attendance, the ~~board~~ Board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Verified documentation of attendance shall be submitted by respondent with each quarterly report~~.~~. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

If a facilitated group support meeting is ordered for a substance-abusing licensee, add the following language regarding the facilitator:

The group facilitator shall meet the following qualifications and requirements:

a. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.

b. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
c. The ~~group~~ meeting facilitator shall provide to the board a signed document showing the licensee's name, facilitator's qualifications, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
d. The facilitator shall report any unexcused absence within twenty-four (24) hours.

~~NOTE:~~ RATIONALE: Alcohol and/or other drug abuse treatment shall be required in addition to other terms of probation in cases where the use of alcohol or other drugs by respondent has impaired respondent's ability to safely provide psychological services ~~to patients~~. This condition must be accompanied by condition #~~12~~13. This term is to be considered in cases where the grounds for discipline involve drugs and/or alcohol, or where the Uniform Standards Related to a Substance-Abusing Licensee apply~~=~~. If the Uniform Standards do not apply, where relevant, non-facilitated support group attendance, such as ~~12~~ Twelve Step meetings, may be ordered instead of a facilitated group support meeting, or in addition to it.

12. Abstain from Drugs and Alcohol and Submit to Tests and Samples [Uniform Standard #4]

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, or any drugs requiring a prescription unless respondent provides the Board or its designee with documentation from ~~the treating physician and surgeon~~ the prescribing health professional that the prescription was legitimately issued and is a necessary part of the treatment of respondent.

Respondent shall abstain completely from the ~~use~~ intake of alcohol~~ic beverages~~.

Respondent shall undergo random~~,~~ and directed biological fluid or specimen testing as determined by the Board or its designee. Respondent shall be subject to [a minimum of fifty-two (52)] random tests [per year within the first year of probation, and a minimum of thirty-six (36) random tests per year thereafter,] for the duration of the probationary term. Any confirmed positive finding will be considered a violation of probation. Respondent shall pay all costs associated with such testing~~.~~. ~~The length of time and frequency of this testing condition will be determined by the Board or its designee.~~ If respondent tests positive for a banned substance, respondent shall be ordered by the Board to immediately cease any practice of psychology, and may not practice unless and until notified by the Board~~=~~. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to alcohol and/or drug testing~~.~~. Respondent shall submit to his or her alcohol and/or drug test on the same day that he or she is notified that a test is required~~=~~. All

alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

Drugs - Exception for Personal Illness

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a ~~physician and surgeon~~ licensed health care professional. -Respondent shall provide the Board or its designee with written documentation from the treating ~~physician and surgeon~~ licensed health care professional who prescribed medication(s)~~.~~. The documentation shall identify the medication, dosage, number of refills, if any; the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

~~NOTE:~~ **RATIONALE: This condition provides documentation that the probationer is substance or chemical free~~.~~. It also provides the Board with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances~~.~~. The term is mandatory in cases where the Uniform Standards Related to a Substance-Abusing Licensee apply~~.~~. Where the Uniform Standards do not apply, where relevant, the respondent should be ordered to submit to random and directed testing, but need not be ordered to submit to the minimum of random tests.**

13. Educational Review

Respondent shall submit to an educational review concerning the circumstances that resulted in this administrative action~~.~~. The educational review shall be conducted by a board-appointed expert familiar with the case. Educational reviews are informational only and intended to benefit respondent's practice~~.~~. Respondent shall pay all costs associated with this educational review.

RATIONALE: In cases involving evidence of deficiencies in the body of knowledge required to be minimally competent to practice independently, it may be appropriate to require the respondent to submit to an educational review during the course of the probation period.

~~**14. Community Service - Free Services**~~

~~Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a community service program in which respondent shall provide free psychological services on a regular basis to community, charitable facility, governmental entity or a non-profit corporation tax~~

~~exempt under the Internal Revenue Code for at least _____ hours a month for the first _____ months of probation.~~

~~**NOTE: In addition to other terms of probation, community service work may be required for relatively minor offenses that do not involve deficiencies in knowledge, skills or judgement. Community service may be appropriately combined with restitution or other conditions as a term of probation.**~~

B. STANDARD TERMS AND CONDITIONS

(To be included in ~~all~~ ALL Proposed Decisions and Stipulations)

14. Notification to Employer [Uniform Standard #3]

When currently employed, applying for employment or negotiating a contract, or contracted to provide psychological services, respondent shall provide to each employer~~s~~, supervisor, or contractor, or prospective employer or contractor where respondent is providing or would provide psychological services, a copy of this Decision and the Accusation or Statement of Issues before accepting or continuing employment~~.~~. Notification to the respondent's current employer shall occur no later than the effective date of the Decision~~.~~. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors, or contractors, and shall inform the Board in writing of the facility or facilities at which the person is providing psychological services, the name(s) of the person(s) to whom the Board's decision was provided.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor, or contractor.

15. Coursework

Respondent shall take and successfully complete not less than _____ hours each year of probation in the following area(s) _____. Coursework must be pre-approved by the Board or its designee~~.~~. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement~~.~~. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within ninety (90) days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements~~.~~. All costs of the coursework shall be paid by the respondent.

16. Ethics Course

Within ninety (90) days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a course in laws and ethics as

they relate to the practice of psychology~~.~~. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and completed within one year from the effective date of this Decision. This course must be in addition to any continuing education courses that may be required for license renewal~~.~~. The cost associated with the law and ethics course shall be paid by the respondent.

17. Investigation/Enforcement Cost Recovery

Respondent shall pay to the Board its costs of investigation and enforcement in the amount of $_____ within the first year of probation~~.~~. Such costs shall be payable to the Board of Psychology and are to be paid regardless of whether the probation is tolled~~.~~. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by respondent to the Board. However, full payment of any and all costs required by this condition must be received by the ~~b~~Board no later than six (6) months prior to the scheduled termination of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs.

18. Probation Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay probation monitoring costs.

~~**Authority: Business and Professions Code Section 2964.6 (effective 1/1/95).**~~

19. Obey All Laws

Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this

shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

20. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation~~.~~. Quarterly reports attesting to non-practice status are to be submitted if probation is tolled.

Respondent shall submit a quarterly report no later than seven (7) calendar days from the beginning of the assigned quarter.

21. Probation Compliance

Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned Board of Psychology probation monitor~~.~~. Respondent shall contact the assigned probation monitor regarding any questions specific to the probation order~~.~~. Respondent shall not have any unsolicited or unapproved contact with (1) complainants associated with the case; (2) Board members or members of its staff; or (3) persons serving the Board as expert evaluators.

22. Interview with Board or Its Designee

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

23. Changes of Employment/ Address

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Respondent shall notify the Board in writing, through the assigned probation monitor, of any and all changes of employment, location, and address within thirty (30) days of such change.

24. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State Non-Practice

In the event respondent should leave California to reside or to practice outside the State ~~or~~ for any reason ~~should respondent stop practicing psychology in California~~, respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return ~~or the dates of non-practice within~~ to California~~.~~. ~~Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code.~~ . ~~During periods of non-practice, the probationary period is tolled and respondent's license or registration shall be placed on inactive status.~~ . ~~The probationary period will not commence again until respondent activates his or her license and resumes practicing psychology in the state of California.~~ . ~~However, the Board may require respondent to complete certain terms of probation that are not associated with active practice and respondent will be required to pay cost recovery and restitution as ordered.~~ . All provisions of probation other than the quarterly report requirements, restitution, cost recovery, and coursework requirements, shall be held in abeyance until respondent resumes practice in California~~=~~. All provisions of probation shall recommence on the effective date of resumption of practice in California, and the term of probation shall be extended for the period of time respondent was out of state.

Unless by Board order, in the event respondent is not engaging in the practice of psychology while residing in California, respondent shall notify the Board or its designee in writing within ten (10) days of the dates of cessation of practice and expected return to practice~~=~~. Non-practice is defined as any period of time exceeding thirty (30) days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code~~=~~. All provisions of probation shall remain in effect, and the term of probation shall be extended for the period of time respondent was not engaged in the practice of psychology as required by other employment requirements of this order.

25. Employment and Supervision of Trainees

If respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees ~~during the course of this probation~~. Any such supervisorial relationship in existence on the effective date of this ~~probation~~ Decision and Order shall be terminated by respondent and/or the Board.

26. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

~~26~~ 27~~.~~. Future Registration or Licensure

If respondent is registered as a psychological assistant or registered psychologist and subsequently obtains other psychological assistant or registered psychologist

registrations or becomes licensed as a psychologist during the course of this probationary order, this Decision shall remain in full force and effect until the probationary period is successfully terminated~~.~~. Future registrations or licensure shall not be approved, however, unless respondent is currently in compliance with all of the terms and conditions of probation.

28. Request for Modification [Uniform Standard # 11]

"Request" as used in this condition is a request made to the Board's designee, and not under the Administrative Procedure Act.

The licensee shall demonstrate that he or she has met the following criteria before being granted a request to modify a practice restriction ordered by the Board staff pursuant to the Uniform Standards:

a. Demonstrated sustained compliance with current recovery program.
b. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.
c. Negative alcohol and drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

~~27.~~29. Violation of Probation

If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed~~.~~. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the ~~period~~ term of probation shall be extended until the matter is final~~.~~. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

~~28.~~30. Completion of Probation

Upon successful completion of probation, respondent's license shall be fully restored.

~~29.~~31. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of his or her license or registration. The Board of Psychology or its designee reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request,

or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall, within fifteen (15) calendar days, deliver respondent's pocket and/or wall certificate to the Board or its designee and respondent shall no longer practice psychology. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent ~~re-applies~~ reapplies for a psychology license or registration, the application shall be treated as a petition for reinstatement of a revoked license or registration.

C. STANDARD TERMS AND CONDITIONS
(To be included in ALL Stipulations for Surrender or Revocation)

~~30.~~32. Reinstatement and Investigation/Enforcement Cost Recovery

Respondent may not petition for reinstatement of a revoked or surrendered license/registration for three (3) years from the effective date of this Decision~~.~~. If the Board grants future reinstatement, respondent agrees to reimburse the Board for its costs of investigation and enforcement of this matter in the amount of $___ payable to the Board upon the effective date of such reinstatement Decision.

~~31.~~33. Relinquish License

Respondent shall relinquish his/her wall and pocket certificate of licensure or registration to the Board or its designee once this Decision becomes effective and upon request.

~~ACCUSATIONS~~

~~Effective January 1, 1993, the Board received authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. . The Board requests that cost recovery be included in the pleading and made part of ALL Accusations.~~
~~Effective January 1, 1995, Business and Professions Code Section 2964.6 gives the Board the authority to recover probation monitoring costs. . The Board requests that probation monitoring cost recovery be included in the pleading and made part of ALL Accusations.~~

~~STATEMENTS OF ISSUES~~

~~The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee or registrant would be cause for license or registration discipline.~~

~~**STIPULATED SETTLEMENTS**~~

~~The Board will consider agreeing to stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. . The respondent should be informed that in order to stipulate to a settlement with the Board, the Board would prefer that respondent admit to one or more of the principle violations set forth in the Accusation. . In stipulated revocations or surrenders, the Board expects language that would cause respondents to admit to all charges upon filing future Petitions for Reinstatement. . The Deputy Attorney General must accompany all proposed Stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions and proposed penalty along with a recommendation.~~

IV. PROPOSED DECISIONS

A. Contents: The Board requests that Proposed Decisions include the following:

~~A. Names and addresses of all parties to the action.~~

~~B.~~ a. Specific code section(s) violated with the definition of the code(s) in the Determination of Issues.

~~C.~~ b. Clear description of the acts or omissions which caused the violation.

~~D.~~ c. Respondent's explanation of the violation(s) in the Findings of Fact if he/she was present at the hearing.

~~E.~~ d. Description of all evidence of mitigation, rehabilitation and aggravation presented at the hearing.

~~F.~~ e. Explanation of any deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the order first list any combination of the Optional Terms and Conditions (1-~~14~~ 13) as they may pertain to the particular case followed by **all** of the Standard Terms and Conditions (14 ~~15-29~~ 31).

If the respondent fails to appear for his/her scheduled hearing or does not submit a Notice of Defense form, **such inaction shall result in a default decision to revoke licensure or deny application**.

B. Recommended Language for Issuance and Placement of a License on Probation, and Reinstatement of License

Disciplining of a License/Registration:

"IT IS HEREBY ORDERED that the [registration] [license] issued to respondent is REVOKED. However, the order of revocation is STAYED and the [registration] [license] is placed on probation for [#] years subject to the following terms and conditions:"":

Applicant Placed on Probation:

"IT IS HEREBY ORDERED that the application for [licensure] [registration] as a psychologist of respondent is GRANTED, and upon successful completion of all [licensing] [registration] requirements a [license] [registration] shall be issued, provided that all [licensing] [registration] requirements are completed within two (2) years of the effective date of this decision. If a [license] [registration] is not issued within two (2) years of the effective date of this decision, the application is ordered denied, and a new application will be required. Upon issuance, however, said [license] [registration] shall immediately be REVOKED. However, the order of revocation shall be STAYED, and the [license] [registration] is placed on probation for [#] years subject to the following terms and conditions:"":

Reinstatement of a License:

"The petition of [name], [Ph.D.] [PsyD.], for reinstatement of licensure is hereby GRANTED. Psychologist license number [#] shall be reinstated provided that all licensing requirements are completed within two (2) years of the effective date of this decision. If the license is not reinstated within two (2) years of the effective date of this decision, the petition is ordered denied, and a new petition for reinstatement will be required. Upon reinstatement, however, the license shall be immediately revoked. However, the order of revocation shall be STAYED, and petitioner's license shall be placed on probation for a period of [#] years subject to the terms and following conditions:"

V. REHABILITATION CRITERIA FOR REINSTATEMENT/PENALTY RELIEF HEARINGS

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Denials and Reinstatements in California Code of Regulations, Title 16, section 1395; and (2) the evidence presented by the petitioner of his/her rehabilitation. The Board will not retry the original revocation or probation case.

The Board will consider, pursuant to Section 1395, the following criteria of rehabilitation:

(1) The nature and 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 Code.

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

The Board requests that comprehensive information be elicited from the petitioner regarding his/her rehabilitation~~.~~. The petitioner should provide details that include:

A. Why the penalty should be modified or why the license should be reinstated.

B. Specifics of rehabilitative efforts and results which should include programs, psychotherapy, medical treatment, etc., and the duration of such efforts.

C. Continuing education pertaining to the offense and its effect on ~~the~~ his or her practice of psychology.

D. If applicable, copies of court documents pertinent to conviction, including documents specifying conviction and sanctions, and proof of completion of sanctions.

E. If applicable, copy of Certificate of Rehabilitation or evidence of expungement proceedings.

F. If applicable, evidence of compliance with and completion of terms of probation, parole, restitution, or any other sanctions.

Rehabilitation is evaluated according to an internal subjective measure of attitude (state of mind) and an external objective measure of conduct (state of facts)~~.~~. The state of mind demonstrating rehabilitation is one that has a mature, measured appreciation of the gravity of the misconduct and remorse for the harm caused~~.~~. Petitioner must take responsibility for the misconduct and show an appreciation for why it is wrong~~.~~. Petitioner must also show a demonstrated course of conduct that convinces and assures the Board that the public would be safe if petitioner is permitted to be licensed to practice psychology~~.~~. Petitioner must show a track record of reliable, responsible, and consistently appropriate conduct.

In the Petition Decision, the Board requests a summary of the offense and the specific codes violated that resulted in the revocation, surrender or probation of the license.

If the Board should deny a request for reinstatement of licensure or penalty relief, the Board requests that the Administrative Law Judge provide technical assistance in the

formulation of language clearly setting forth the reasons for denial. Such language would include methodologies or approaches that demonstrate rehabilitation. Petitioners for reinstatement must wait three (3) years from the effective date of their revocation decisions or one (1) year from the last petition for reinstatement decisions before filing for reinstatement.

If a petitioner fails to appear for his/her scheduled reinstatement or penalty relief hearing, such inaction shall result in a default decision to deny reinstatement of the license or registration or reduction of penalty.

VI. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSING LICENSEES

The following Uniform Standards describe the conditions that apply to a substance abusing applicant or licensee. If the ground(s) for discipline involves drugs and/or alcohol, the applicant or licensee shall be presumed to be a substance-abusing applicant or licensee for purposes of section 315 of the Code. If the applicant or licensee does not rebut that presumption, there shall be a finding that he or she is a substance abusing applicant or licensee, and the Uniform Standards for a substance abusing applicant or licensee shall apply as written and be used in the order placing the license on probation. The Board may impose more restrictive conditions if necessary to protect the public.

The Uniform Standards are incorporated into the terms and conditions, and the relevant term or condition incorporating that Uniform Standard is identified below. While certain Uniform Standards are **not** required to be imposed, **if** imposed, they may only be modified to be made more restrictive.

Uniform Standard numbers 13, 14, 15, 16, and a portion of 4, are neither summarized, nor implemented as a term or condition of probation: #s 13-15 apply to diversion programs, which this Board does not use; #16 relates to reporting to the Legislature; and portions of #4 relate to specimen collection, which is implemented by contract.

Clinical Diagnostic Evaluations [Uniform Standard #1]:
(Reflected in Optional Term # 9)

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, and has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders. The evaluator shall be approved by the Board, and unless permitted by the Board or its designee, shall be a California-licensed psychologist or physician and surgeon. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Whether the clinical diagnostic evaluation is ordered is discretionary.

Clinical Diagnostic Evaluation/Cease Practice Order [Uniform Standard #2]:
(Reflected in Optional Term # 9)

Unless the presumption that the applicant or licensee is a substance-abusing applicant or licensee is rebutted, and the public can be adequately protected, the Board shall order the applicant or licensee to cease any practice of psychology pending the clinical diagnostic evaluation and a Board determination upon review of the diagnostic evaluation report that the applicant is safe to begin or the licensee is safe to return to practice.

If the evaluation is ordered, a cease practice order is mandatory.

Clinical Diagnostic Evaluation Report [Uniform Standard #s 1, 6]:
(Reflected in Optional Term # 9)

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have had a financial, personal, business or other relationship with the licensee within five (5) years. =The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days.

The Board shall review the clinical diagnostic evaluation to help determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical

history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

If the evaluation is ordered, this standard is mandatory. The Board's optional term #9 reflects a more restrictive standard regarding the relationship between the evaluator and respondent.

Communication with Employer [Uniform Standard #3]:
(Reflected in Standard Term # 14)

If the licensee whose license is on probation has an employer, the licensee shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

Facilitated Group Support Meetings [Uniform Standard #5]:
(Reflected in Optional Term # 11)

If the Board requires a licensee to participate in facilitated group support meetings, the following shall apply:

1. When determining the frequency of required group meeting attendance, the Board shall give consideration to the following:

    - the licensee's history;
    - the documented length of sobriety/time that has elapsed since substance use;
    - the recommendation of the clinical evaluator;
    - the scope and pattern of use;
    - the licensee's treatment history; and,
    - the nature, duration, and severity of substance abuse.

2. Group Meeting Facilitator Qualifications and Requirements:

    a. The meeting facilitator must have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the State or other nationally certified organizations.
    b. The meeting facilitator must not have had a financial relationship, personal relationship, or business relationship with the licensee within the last year.
    c. The meeting facilitator shall provide to the Board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
    d. The meeting facilitator shall report any unexcused absence within twenty-four (24) hours.

Whether facilitated support group meetings are ordered is discretionary~~.~~. (Under the Disciplinary Guidelines, non-facilitated support group attendance, such as Twelve Step meetings, may also be ordered.) The Board's optional term #11 reflects a more restrictive standard regarding the relationship between the evaluator and respondent.

Worksite Monitor Requirements [Uniform Standard # 7]:
(Reflected in Optional Term # 4)

If the Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board~~.~~. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available, or, as approved by the Board, be a person in a position of authority who is capable of monitoring the licensee at work.

If the worksite monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

(1) Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
(2) Interview other staff in the office regarding the licensee's behavior, if applicable.
(3) Review the licensee's work attendance and behavior.

Reporting by the worksite monitor to the Board shall be as follows:

> Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence~~.~~. If occurrence is not during the Board's normal business hours the oral report must be within one

(1) hour of the next business day~~.~~. A written report shall be submitted to the Board within forty-eight (48) hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the ~~b~~Board~~.~~. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

Whether a worksite monitor is ordered is discretionary. The Board's optional term #4 reflects a more restrictive standard regarding the qualifications of the monitor and the relationship between the monitor and respondent.

Major and Minor Violations [Uniform Standard #s 9, 10]:
(Reflected in Optional Term #s 10, 11, 13)

If a licensee commits a major violation, the Board may order the licensee to cease any practice of psychology, inform the licensee that he or she has been so ordered and that he or she may not practice unless notified by the Board, and refer the matter for disciplinary action or other action as determined by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to obtain biological testing for substance abuse when ordered;
7. Testing positive for a banned substance;
8. Knowingly using, making, ~~altering~~altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License or registration shall be suspended;
2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

If a licensee commits a minor violation, the Board shall determine what action is appropriate.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused absence from required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate.

The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

DRUG TESTING STANDARDS [Uniform Standards #4, 8, 9,]:
(Reflected in Optional Term # 13)

If a licensee tests positive for a banned substance, the Board shall order that the licensee cease any practice of psychology, and contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice until the Board determines that he or she is able to safely practice~~.~~. The Board shall also notify the licensee's employer and worksite monitor, if any, that the licensee has been ordered to cease practice, and that he or she may not practice until the Board determines that he or she is able to safely practice~~.~~. The Board shall determine whether the positive alcohol or drug test is, in fact, evidence of prohibited use, a major violation~~.~~. If not, the Board shall immediately lift the cease practice order.

Nothing precludes the Board from increasing the number of random tests for any reason. If the Board finds or has suspicion that a licensee has committed a violation of the Board's testing program or who has committed a Major Violation, as identified in Uniform Standard 10.

The following minimum drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly alcohol or drug tested at least fifty-two (52) times per year for the first year of probation, and at any time as directed by the Board. After the first year, licensees who are practicing, shall be randomly alcohol or drug tested at least thirty-six (36) times per year, and at any time as directed by the Board.
2. Alcohol or drug testing may be required on any day, including weekends and holidays.
3. Licensees shall be required to make daily contact as directed to determine if alcohol or drug testing is required.
4. Licensees shall be alcohol or drug tested on the date of notification as directed by the Board.
5. Collection of specimens shall be observed.
6. Prior to vacation or absence, alternative alcohol or drug testing location(s) must be approved by the Board.

Drug testing standards are mandatory and shall apply to a substance-abusing licensee, and the required testing frequency shall be ordered.

Petitioning for Modification to Return to Full Time Practice [Uniform Standard #11]:
(Reflected in Optional Term # 28)

"Petition" as used in this standard is an informal request for any term or condition *that is within the discretion of the Executive Officer or probation monitor to modify* as opposed to a "Petition for Modification" under the Administrative Procedure Act.

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Demonstrated sustained compliance with current recovery program.
2. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.
3. Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

Petitioning for Modification of Reinstatement of a Full and Unrestricted License [Uniform Standard #12]:

(Reflected in Rehabilitation Criteria for Reinstatement/Penalty ~~Relief)~~Relief)

"Petition for Reinstatement of a Full and Unrestricted License" as used in this standard can only be considered as a formal Petition for Early Termination of Probation under the Administrative Procedure Act.
In addition to the factors set out in section V, Rehabilitation Criteria for Reinstatement/ Penalty Relief Hearings, the licensee must meet the following criteria to request (petition) for a full and unrestricted license:

1. Demonstrated sustained compliance with the terms of the disciplinary order, if applicable.
2. Demonstrated successful completion of recovery program, if required.
3. Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities.
4. Demonstrated that he or she is able to practice safely.
5. Continuous sobriety for three (3) to five (5) years.

# # # # #