



## MEMORANDUM

<b>DATE</b>	November 14, 2018
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Amanda Drummond, Administrative Programs Coordinator
<b>SUBJECT</b>	<b>Agenda Item 8E. Sections <a href="#">2006</a> and <a href="#">2006.5</a>, Article 1, and Section <a href="#">2076</a>, Article 8, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Uniform Standards for Substance Abusing Licensees</b>

### **Background:**

To address inconsistencies and nonexistent standards for disciplining substance-abusing licenses and to better protect patients from substance-abusing licensees, [Senate Bill \(SB\) 1441](#) (Ridley-Thomas, Chapter 548, Statutes of 2008) created a Substance Abuse Coordination Committee made up of all healing arts board executive officers. In April 2011, the Substance Abuse Coordination Committee developed 16 uniform standards for substance abusing healing arts licensees (Uniform Standards) to be used by each healing arts board in disciplining substance-abusing licensees. To implement the Uniform Standards, each healing arts board was advised to promulgate regulations to ensure that a practitioner is aware of the Uniform Standards and can access all of the standards relevant to him or her in each board's regulations.

Department of Consumer Affairs (DCA) legal counsel drafted three options to revise [CCR section 2006](#), [Disciplinary Guidelines](#), and add new section 2006.5, Uniform Standards, to implement the Uniform Standards. The Board was advised that, because the Uniform Standards are mandated by statute, the Board did not have discretion to change the Uniform Standard themselves and only had the discretion to determine when they may be triggered, which was identified in the three options: (1) if the conduct found to be in violation involves drugs and/or alcohol, the licensee would be presumed to be a substance-abusing licensee subject to the Uniform Standards; (2) a clinical diagnostic evaluation would be ordered to determine whether the licensee was a substance-abusing licensee; or (3) if, after notice and a hearing, the individual was found by the Board to be a substance-abusing licensee, then the Uniform Standards would apply. In October 2012, the Board decided to proceed with Option 3.

At the Board's [April 2014](#) meeting, the Board reviewed the proposed language for the Uniform Standards as combined with the Board's [Disciplinary Guidelines](#). At that time, it was identified that some of the [Disciplinary Guidelines](#) language was not specifically related to substance abusing licensees, and it was recommended to separate the two regulatory packages. At the [October 2014](#) meeting, the Board approved the Uniform Standards and directed Board staff to proceed with developing the regulatory rulemaking package. Importantly, the motions made by

the Board at the October 2012 and [October 2014](#) meetings did not meet requirements for a complete motion needed for Board staff to proceed with initiating the rulemaking file.

Legal opinions regarding the requirements to implement the uniform standards were received from the Office of the Attorney General (AG), the Deputy Director of Legal Affairs for DCA, and the Legislative Counsel Bureau. The opinions received did not provide consistent guidance, and a formal legal opinion was issued by the AG in April of 2015. Following the formal legal opinion from the AG, the rulemaking file was placed on hold at the direction of DCA legal counsel from April 2015 through February 2016 pending resolution of the proper interpretation and uses of the Uniform Standards. In February 2016, DCA legal counsel provided an overview of the formal legal opinion from the AG and direction to the healing arts boards on how to implement the Uniform Standards.

The language is presented to the Board today for their consideration and review, and to determine how to best proceed with the Uniform Standards regulatory package. The Board can combine the Uniform Standards with the [Disciplinary Guidelines](#) rulemaking package, or it can proceed as a standalone regulation with the “Standard Language to Be Included in Every Probationary Order For Substance Abusing Licensees” as a document incorporated by reference. Due to the length of time lapsed and the change in legal opinion since the Board originally adopted the Uniform Standards rulemaking in [October 2014](#), it is recommended that the Board review and/or revise the rulemaking and readopt it.

**Attachments:**

- June 2012 three regulation revisions options for implementing SB 1441 as presented by DCA legal counsel at July 2012 Board meeting
- October 2012 Board-adopted Uniform Standards language for CCR sections 2006, 2006.5, and 2076 (Option #3)
- October 2014 Board-adopted Uniform Standards.

## Uniform Standards Related to Substance Abuse

### Veterinary Medical Board

#### Options for Regulatory Adoption

##### Option 1

Section 2006 Division 20 of Title 16, Article 1 of the California Code of Regulations is amended:

Section 2006. Disciplinary Guidelines

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abuse as provided in Section 2006.5, without deviation, for each individual shown to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Section 2006.5 Division 20 of Title 16, Article 1 of the California Code of Regulations is added:

Section 2006.5. Uniform Standards for Substance Abuse.

(a) If the conduct found to be a violation 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 the presumption, then the terms and conditions contained in the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011), which is hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

## Option 2

### Section 2006. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled “Model Guidelines for Issuing Citations and Imposing Discipline”, Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

However, neither the Board nor and administrative law judge may impose any conditions or terms of probation that are less restrictive that the uniform standards related to substances abuse listed in Section 2006.5. If a licensee has not yet been identified as a substance-abusing licensee (for example, through stipulation) in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the Uniform Standards may, in the discretion of the Board, be made contingent upon a clinical diagnostic evaluator’s report that the individual is a substance-abusing licensee. The clinical diagnostic evaluator’s report shall be submitted in its entirety to the board.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

### Section 2006.5. Uniform Standards for Substance Abuse.

(a) If a licensee has been identified as a substance-abusing licensee as provided in Section 2006, then the terms and conditions contained in the document entitled “Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders” (Rev. April 2011), which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

### Option 3

#### Section 2006. Disciplinary Guidelines

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abuse as provided in Section 2006.5, without deviation, for each individual proven to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

#### Section 2006.5. Uniform Standards for Substance Abuse.

(a) If, after notice and a hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the government Code (Commencing with section 11500 et seq.), the Board finds that the evidence proves that an individual is a substance-abusing licensee, then the terms and conditions contained the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011) , which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

For all options, this is necessary to make clear that Diversion participants are also subject to the U.S.

Section 2076 Division 20 of Title 16, Article 8 of the California Code of Regulations is amended:

2076. Criteria for Admission.

An applicant shall meet the following criteria for admission to the program:

- (a) The applicant shall be a veterinarian or registered veterinary technician licensed or registered in this state.
- (b) The applicant shall reside in California.
- (c) The applicant is found to abuse alcohol or other dangerous drugs in a manner which may affect the veterinarian's ability to practice veterinary medicine competently or the registered veterinary technician's ability to perform his or her duties competently.
- (d) The applicant shall have voluntarily requested admission to the program.
- (e) The applicant agrees to undertake any reasonable medical or psychiatric examinations necessary to evaluate the application for participation in the program.
- (f) The applicant cooperates with the program by providing medical information, disclosure authorizations and releases of liability as may be necessary for participation in the program.
- (g) The applicant agrees in writing to cooperate with all elements of both the program and the individual treatment program designed by a diversion committee.
- (h) The applicant agrees in writing to be subject to all provisions of the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" (Rev. April 2011), which is hereby incorporated by reference.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, Business and Professions Code.

Reference: Sections 315, 315.2, 315.4, 4866, Business and Professions Code.

## Uniform Standards Related to Substance Abusing Licensees

### Veterinary Medical Board

#### Option 3

#### **Section 2006. Disciplinary Guidelines**

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abuse as provided in Section 2006.5, without deviation, for each individual proven to be a substance-abusing licensee.

Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code. Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

#### **Section 2006.5. Uniform Standards for Substance Abuse.**

(a) If, after notice and a hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the government Code (Commencing with section 11500 et seq.), the Board finds that the evidence proves that an individual is a substance-abusing licensee, then the terms and conditions contained the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011) , which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code. Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

#### **2076. Criteria for Admission.**

An applicant shall meet the following criteria for admission to the program:

(a) The applicant shall be a veterinarian or registered veterinary technician licensed or registered in this state.

(b) The applicant shall reside in California.

(c) The applicant is found to abuse alcohol or other dangerous drugs in a manner which may affect the veterinarian's ability to practice veterinary medicine competently or the registered veterinary technician's ability to perform his or her duties competently.

(d) The applicant shall have voluntarily requested admission to the program.

(e) The applicant agrees to undertake any reasonable medical or psychiatric examinations necessary to evaluate the application for participation in the program.

(f) The applicant cooperates with the program by providing medical information, disclosure authorizations and releases of liability as may be necessary for participation in the program.

(g) The applicant agrees in writing to cooperate with all elements of both the program and the individual treatment program designed by a diversion committee.

(h) The applicant agrees in writing to be subject to all provisions of the “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” (Rev. April 2011), which is hereby incorporated by reference.

Authority cited: Sections 315, 315.2, 315.4, 4808, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 4866, Business and Professions Code.

VETERINARY MEDICAL BOARD

STANDARD LANGUAGE TO BE INCLUDED IN EVERY

PROBATIONARY ORDER FOR SUBSTANCE ABUSING LICENSEES

Pursuant to Section 315 of the Business and Professions Code, the Veterinary Medical Board is directed to use the standards developed by the Substance Abuse Coordination Committee (SACC) for substance abusing licensees. On April 11, 2011, the SACC developed standards to be used by all healing arts boards. Administrative Law Judges, parties and staff are therefore required to use the language below, which is developed in accordance with those SACC standards.

To that end, the following probationary terms and conditions shall be used in every case where it has been determined that the individual is a substance-abusing licensee as provided in Section 2006.5 of Title 16 of the California Code of Regulations. ~~To implement~~ ~~For purposes of implementation of~~ these conditions of probation, any reference to the Board also means ~~staff working for the~~ Veterinary Medical Board ~~staff~~ or its designee. These conditions shall be used in lieu of any similar standard or optional term or condition proposed in the Board's Disciplinary Guidelines, incorporated by reference at Title 16, Section 2006. However, the Board's Disciplinary Guidelines should still be used in formulating the penalty and in considering additional terms or conditions appropriate for greater public protection (e.g., other standards or optional terms of probation).

**ADDITIONAL PROBATIONARY TERMS AND CONDITIONS**

- (1) **NOTIFICATION TO EMPLOYER** – Prior to engaging in the practice of veterinary medicine or veterinary technology, ~~and before accepting or continuing employment,~~ ~~the~~ Respondent shall provide a true copy of the Decision and Accusation to his or her employer, supervisor, ~~or~~ contractor, or prospective employer or contractor, ~~and at any other facility where the~~ Respondent engages in the practice of veterinary medicine. ~~before accepting or continuing employment.~~ Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days ~~of the effective date of the decision.~~

This condition shall apply to any changes(s) in place of employment, ~~whereas the~~ Respondent shall provide proof of employer notification to the Board within fifteen (15) days of reporting to the new place of employment.

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~~ ~~of or~~ facilities at which the person engages in the practice of veterinary medicine.

Respondent shall give specific, written consent to the Board and its contractor to allow the Board or its designee to communicate with the employer, ~~and~~ supervisor or contractor regarding the licensee's work status, performance and monitoring.

Source: Uniform Standard #3 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised date April 2011.

- (2) ~~SUPERVISED PRACTICE~~ **WORKSITE MONITOR**– Within 60 days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed ~~supervisors~~ monitors, and a plan for each ~~such monitor to supervise~~ or by which Respondent's practice ~~would be supervised~~. The Board will advise Respondent within two weeks whether or ~~not~~ the proposed ~~supervisor~~ monitor and plan ~~of supervision~~ are approved. Respondent shall not practice until receiving notification of Board ~~approving~~ Respondent's choice of a supervisor, ~~and plan of supervision~~. Respondent shall complete any required consent forms and sign an agreement with the ~~supervisor~~ monitor and the board regarding the ~~terms of the supervised monitored practice and the reporting responsibilities~~. Respondent and the supervisor's requirements and reporting responsibilities.

The ~~supervisor~~ monitor shall meet the following additional requirements:

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

The ~~supervisor~~ monitor shall have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, but at least once per week. The ~~supervisor~~ monitor shall interview other staff in the office regarding the licensee's behavior, if applicable. The ~~supervisor~~ monitor shall review the licensee's work attendance and observe the Respondent's behavior.

The ~~supervisor~~ monitor shall ~~orally~~ verbally report any suspected substance abuse to the Board and the licensee's employer within one (1) business day of the occurrence. If the occurrence is not during the Board's normal business hours, the ~~oral~~ verbal report must be within one (1) hour of the next business day. The ~~supervisor~~ monitor shall submit a written report to the Board within 48 hours of the occurrence.

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

The plan of supervision shall be 1) direct and require the physical presence of the supervising veterinarian in the veterinary premises during the time veterinary medicine is being performed, or 2) general and not require the physical presence of the supervising veterinarian during the time veterinary medicine is being performed, but does require an occasional random check of the work performed on the patient as well as quarterly monitoring visits to the premise or place of practice. Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each proposed supervisor monitor shall be a California licensed veterinarian who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure ensure that the required reports are filed in a timely manner. Each supervisor monitor shall have been licensed in California for at least five (5) years and not have ever been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and, therefore, in and of itself is not a reason to deny reject an individual as a supervisor monitor.

The supervisor monitor shall be independent, with no prior business or professional relationship with Respondent and the supervisor shall not be in a familial relationship with, or be an employee, partner or associate of Respondent. If the supervisor monitor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision monitoring shall be borne by Respondent.

Source: Uniform Standard #7 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised date April 2011.

**3. DRUG AND ALCOHOL TESTING** – Respondent shall submit to, and pay for, any random and directed biological fluid or hair sample, breath alcohol or any other mode of testing required by the Board. Though the frequency of testing will be determined by the Board or its designee, it shall be unpredictable and, and shall be designed so as to prevent Respondent from anticipating testing dates (either randomized testing or unpredictable dates), the frequency of testing shall be at least the following: at least fifty-two (52) test dates during the first year of probation; at least thirty-six (36) test dates during the second and subsequent years of probation; and at least one (1) test per month in each year of probation after five (5) years. The Board or its designee may require less frequent testing if any of the following apply:

- Where When Respondent has previously participated in a treatment or rf monitoring program requiring testing, the Board or its designee may consider that the prior testing records in applying the three-tier testing frequency schedule described above;

- Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the Board or its designee may skip the first year testing frequency requirement(s);
- Where Respondent is not employed in any health care field, the frequency of testing may be reduced to a minimum of twelve (12) tests per year. If respondent wishes to ~~thereafter~~ return to employment in a health care field, Respondent shall be required to test at least once a week for a period of sixty (60) days before commencing ~~such~~ employment and shall ~~thereafter~~ be required to test at least once a week for a full year before the Board can consider reducing the testing frequency to no less than thirty-six (36) tests per year ~~and so forth~~;
- Respondent's testing requirement may be suspended during any period of tolling of the period of probation;
- [In cases where no current substance use disorder is made] Where Respondent has a demonstrated period of sobriety and/or non-use, the Board or its designee may reduce the testing frequency to no less than twenty-four (24) tests per year.

Any detection through testing of alcohol or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, may cause the Board or its designee to increase the frequency of testing in addition to any other action including, but not limited to, further disciplinary action.

Respondent shall have the test performed by a Board-approved laboratory certified and accredited by the U.S. Department of Health and Human Services on the same day that he or she is notified that a test is required. This shall ensure that the test results are sent immediately to the Board or its designee. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitutes a violation of probation. If a test results in a determination that the urine admission was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If an ~~"out of range"~~ suspected altered test result is obtained, the Board may require Respondent to immediately undergo a physical examination and to complete laboratory and testing, with costs to be shall be paid by Respondent. An ~~"out of range"~~ result is one in which, based on scientific principles, includes Respondent attempted to alter the test results in order to either render the test invalid or obtain a negative result when a positive result should have been the outcome. If it is determined that the Respondent altered the test results, the result shall be considered an admission of a positive urine screen, and constitutes a violation of probation and Respondent must cease practicing. Respondent shall not resume practice until notified by the Board. If Respondent tests positive for a banned substance, Respondent shall be ordered by the Board to cease any practice and may not practice unless and until notified by the Board. All alternative drug testing sites used during a ~~the course of~~ due to vacation or travel outside of California, must be approved by the Board or its designee prior to the vacation or travel.

Source: Uniform Standards #4, #8-10 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised date April 2011 and Section 315.2 of the Business and Professions Code.

**4. ABSTAIN FROM USE OF ALCOHOL, CONTROLLED SUBSTANCES AND DANGEROUS DRUGS –**

Respondent shall abstain completely from the possession, injection or consumption, ~~of any route,~~ including inhalation, of all psychotropic (mood altering) drugs, including alcohol, ~~and including~~ controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code Section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed by a ~~physical~~ physician and surgeon, or nurse practitioner for a bona fide illness or condition. Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the Board or its designee in writing of the following: prescriber's name, address, telephone number; medication name and strength; issuing pharmacy's name, address and telephone number; and the specific medicinal purpose for the medication. Respondent shall also provide a current list of prescribed medications with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the Board or its designee with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board or its designee's approval a single coordinating physician, surgeon or psychologist who ~~is shall be~~ aware of Respondent's history of substance abuse and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, psychotropic or mood altering drugs. Once a Board-approved physician, surgeon or psychologist has been identified, Respondent shall provide a copy of the accusation and decision to that person. The coordinating physician shall report on a quarterly basis to the Board or its designee ~~on a quarterly basis~~, Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of such substances.

The Board may require that only a physician, surgeon or psychologist who is a specialist in addictive medicine be approved as the coordinating physician.

If Respondent has a positive drug screen for any substances not legally authorized, Respondent shall be ordered by the Board to cease any practice and Respondent may not practice unless and until notified by the Board. If the Board files a petition to revoke probation or an accusation based upon the positive drug screen, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation ~~or accusation~~. This period of suspension will not apply to the reduction of this probationary period.

Source: Uniform Standards #4, #8 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised dated April 2011 and Section 315.2. of the Business and Professions Code.

**5. FACILITATED GROUP SUPPORT MEETINGS -** Within fifteen (15) days from the effective date of the decision, Respondent shall submit to the Board or its designee for prior approval, the name of one or more meeting facilitators. Respondent shall participate in facilitated group support meetings within fifteen (15) days after notification of the Board's approval of the meeting facilitator. When determining

the type and frequency of required facilitated group support meeting attendance, the Board or its designee shall give consideration to the following:

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

Documentation of attendance shall be submitted by Respondent with each quarterly report.

Respondent shall continue attendance in the support 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, the group facilitator shall meet the following qualifications and requirements. ~~The group meeting facilitator shall:~~

1. Be licensed or certified by the state or other nationally certified organizations.

1-2. Have a minimum of three (3) years of experience in the treatment and rehabilitation of substance abuse. ~~and shall be licensed or certified by the state or other nationally certified organizations.~~

2-3. Not have a financial, personal or business relationship with the licensee in the last five (5) years.

3-4. Provide to the Board or its designee 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.

4-5. Report any unexcused absence to the Board or its designee within 24 hours.

Source: Uniform Standard #5 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised dated April 2011.

(6) **CLINICAL DIAGNOSTIC EVALUATION** – Upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. The Board or its designee shall select ~~of approve an~~ evaluator(s) who holding a valid, unrestricted license to practice within the scope of practice that includes the conducting of clinical diagnostic evaluations and possesses at least three (3) years of experience conducting such evaluations of health care professionals with alcohol or substance abuse problems. The evaluator(s) shall not have had a financial, personal, or business relationship with Respondent within the last five (5) years. The evaluator(s) shall provide an objective, unbiased and independent evaluation of Respondent. Respondent shall provide the evaluator with a copy of the Board's decision prior to the clinical diagnostic evaluation being performed.

Any time Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent shall cease practice for a minimum of 30 days after the evaluation pending the results of the clinical diagnostic evaluation and review by the Board. During such time, Respondent shall submit to random drug testing no less than two (2) times per week.

It is Respondent's ~~responsibility to have~~ ~~shall cause~~ the evaluator ~~to~~ submit to the Board or its designee a written clinical diagnostic evaluation report within 10 days from the date the evaluation was completed, unless an extension, not to exceed 30 days, is granted to the evaluator by the Board. The cost of ~~such~~ ~~the~~ evaluation shall be paid by Respondent. The evaluation(s) shall be conducted in accordance with acceptable professional standards for alcohol or substance abuse clinical diagnostic evaluations. The written report(s) shall set forth, at least, the opinions of the evaluator as to: whether Respondent has an alcohol or substance abuse problem, whether respondent is a threat to him/herself or others; and recommendations for alcohol or substance abuse treatment, practice restrictions or other steps related to Respondent's rehabilitation and safe practice. If the evaluator determines during the evaluation process that Respondent is a threat to him/herself or others, the evaluator shall notify the Board or its designee within twenty-four (24) hours. Respondent shall cease practice until the Board determines that ~~he or she~~ Respondent is able to safely practice either full-time or part-time and has had at least 30 days of negative drug test results. Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation.

Source: Uniform Standards #1, #2 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised dated April 2011 and Section 315.4 of the Business and Professions Code.

(7) **DRUG OR ALCOHOL ABUSE TREATMENT PROGRAM** – Upon order of the Board, Respondent shall successfully complete an inpatient, outpatient or any other type of recovery and relapse prevention treatment program as directed by the Board or its designee. When determining ~~if~~ whether Respondent ~~should~~ shall be required to participate in inpatient, outpatient or any other type of treatment, the Board or its designee shall take into consideration the recommendation of the clinical diagnostic evaluation; ~~the~~ license type; ~~the~~ licensee's history; ~~the~~ length of sobriety; ~~the~~ scope and pattern of substance abuse; ~~the~~ treatment history; ~~the~~ medical history; ~~the~~ current medical condition; nature, duration and severity of substance abuse; and whether the licensee is a threat to himself/herself or others.

Source: Uniform Standards #6 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised dated April 2011.