

## Proposed Text

### § 4520. Substantially Related Criteria for Denial of License.

(a) For the purposes of the denial of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or professional misconduct or act shall be considered to be substantially related to the qualifications, functions, or duties of a person holding a professional fiduciary license if to a substantial degree it demonstrates evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, ~~safety~~ safety, or welfare. ~~Such~~

(b) In making the determination required for the denial of a license for the conviction of a crime substantially related to the qualifications, functions, or duties of a licensed professional fiduciary, the following criteria shall be considered:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of a professional fiduciary license.

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

- (1) A conviction of crimes involving domestic abuse.
- (2) A conviction of crimes involving elder abuse.
- (3) A conviction of crimes involving child abuse.
- (4) Conviction of a sex crime or crimes in which registration as a sex offender is required.
- (5) Conviction for assault and/or battery.
- (6) Conviction for driving under the influence of drugs or alcohol.
- (7) Conviction of financial crimes involving ~~fiscal dishonesty or breach of fiduciary responsibilities of any kind.~~ dishonesty, money laundering, fraud, deceit, robbery, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses, or other crimes listed in Section 4521.
- (8) Conviction of crimes involving human trafficking.
- (9) Conviction of crimes involving false imprisonment.
- (10) Conviction of crimes involving kidnapping.
- (11) Conviction of crimes involving extortion.
- (12) Conviction of crimes involving murder or attempt thereof.
- (13) Conviction of crimes involving terrorism.

Note: Authority cited: Sections 480, 481, and 6517, Business and Professions Code. Reference: Sections 141, 480, 481, 493, 6536, and 6537, Business and Professions Code.

### § 4521. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee.

For the purposes of Section 480(a)(1)(B)(ii) of the Business and Professions Code, a financial crime that is classified as a felony, including felony conspiracy or felony attempt to commit that crime, shall be considered to be directly and adversely related to the fiduciary qualifications, functions, or duties of a professional fiduciary if it involves dishonesty, fraud, deceit, or theft that

resulted in or could have resulted in either: (i) direct financial benefit to the applicant or another person, estate, or trust, or (ii) direct financial harm to another person, estate, or trust. Financial crimes that are directly and adversely related to the fiduciary qualifications, functions, or duties of a professional fiduciary shall include, but are not limited to, the following:

(a) Crimes involving the acquisition or provision of false, altered, forged, counterfeit, or fraudulent statements or documents.

(b) Crimes involving stolen property, embezzlement, money laundering, fraud, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses.

Note: Authority cited: Sections 480 and 6517, Business and Professions Code. Reference: Sections 480, 481, 492, 6536, and 6537, Business and Professions Code.

#### § 4522. Rehabilitation Criteria for Denial of License.

(a) When considering the denial of a license under Section 480 or Section 6536, subdivision (b) of the Business and Professions Code on the ground that the applicant was convicted of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary, the Bureau, in evaluating the shall consider whether the applicant made a showing of rehabilitation of the applicant and his or her present eligibility and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Bureau shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Bureau determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the Bureau shall apply the following criteria in evaluating an applicant's rehabilitation. The Bureau shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Bureau finds that the applicant is rehabilitated:

~~(a)~~ (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

~~(b)~~ (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered grounds for denial under Sections 480 and 6536.

~~(c)~~ (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b) paragraph (1) or (2).

~~(d)~~ (4) The extent to which Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

- (5) The criteria in subdivision (a)(1)-(5), as applicable.  
~~(e)(6) Evidence, if any, of rehabilitation submitted by the applicant.~~

Note: Authority cited: Sections 482 and 6517, Business and Professions Code. Reference: Sections 475, 480, 481, 482, 488, 6536, and 6537, Business and Professions Code.

§ 4620. Substantially Related Criteria for License Suspension or Revocation.

(a) For the purposes of the suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, ~~functions~~ functions, or duties of a person holding a professional fiduciary license if to a substantial degree it ~~demonstrates evidences~~ demonstrates present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, ~~safety~~ safety, or welfare. ~~Such~~

(b) In making the determination required for the suspension or revocation of a license for the conviction of a crime substantially related to the qualifications, functions or duties of a licensed professional fiduciary, the following criteria shall be considered:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of a professional fiduciary license.

(c) For purposes of subdivision (a), substantially related crimes or acts shall ~~include~~ include, but are not ~~be~~ limited ~~to~~ to, the following:

- (1) A conviction of crimes involving domestic abuse.
- (2) A conviction of crimes involving elder abuse.
- (3) A conviction of crimes involving child abuse.
- (4) Conviction of a sex crime or crimes in which registration as a sex offender is required.
- (5) Conviction for assault and/or battery.
- (6) Conviction for driving under the influence of drugs or alcohol.
- (7) Conviction of financial crimes involving ~~fiscal dishonesty or breach of fiduciary responsibilities of any kind.~~ dishonesty, money laundering, fraud, deceit, robbery, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses, or other crimes listed in section 4521.
- (8) Conviction of crimes involving human trafficking.
- (9) Conviction of crimes involving false imprisonment.
- (10) Conviction of crimes involving kidnapping.
- (11) Conviction of crimes involving extortion.
- (12) Conviction of crimes involving murder or attempt thereof.
- (13) Conviction of crimes involving terrorism.

Note: Authority cited: Sections 481 and 6517, Business and Professions Code. Reference: Sections 481, 490, 492, 493, 6580, and 6584, Business and Professions Code.

§ 4622. Rehabilitation Criteria for License Suspension or Revocation.

(a) When considering the suspension or revocation of a license under Section 480 or 6536 490 of the Business and Professions Code, the Bureau, in evaluating the shall consider whether the licensee made a showing of rehabilitation of the licensee and his or her present eligibility and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Bureau shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Bureau determines that the licensee did not make the showing of rehabilitation based on the criteria in subsection (a), the Bureau shall apply the following criteria in evaluating the licensee's rehabilitation. The Bureau shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Bureau finds that the licensee is rehabilitated:

~~(a)(1) The nature Nature and severity gravity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.~~

~~(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation which also could be considered grounds for suspension or revocation under Section 6584 of the Business and Professions Code.~~

(2) Total criminal record.

~~(e)(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).~~

~~(d)(4) The extent to which Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.~~

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(e)(7) Evidence, if any, of rehabilitation submitted by the licensee.~~

Note: Authority cited: Sections 482 and 6517, Business and Professions Code. Reference: Sections 475, 480, 482, 488, 490, 493, 6580, and 6584, Business and Professions Code; Section 1203.4, Penal Code.